

DANTE T. MCKAY  
UNITED STATES OF AMERICA vs STATE OF GEORGIA

January 27, 2022

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,  
Plaintiff,  
vs.  
STATE OF GEORGIA,  
Defendants.  
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) CIVIL ACTION  
) NO. 1:16-cv-03088-ELR  
)  
)  
)  
)  
)  
)  
)

VIDEO DEPOSITION OF  
DANTE T. MCKAY

Thursday, January 27, 2022, 10:07 a.m., EST

HELD AT:

Robbins Alloy Belinfante Littlefield LLC  
500 14th Street, N.W.  
Atlanta, Georgia 30318

-----  
WANDA L. ROBINSON, CRR, CCR, No. B-1973  
Certified Shorthand Reporter/Notary Public

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1 ALSO PRESENT VIA ZOOM:

2 U.S. ATTORNEY'S OFFICE:

3  
4 RENEE WOHLLENHAUSE, ESQUIRE

5 KELLY GARDNER, ESQUIRE

6 CLAIRE CHEVRIER, ESQUIRE

7 VICTORIA LILL, ESQUIRE

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10 LAURA SOLLARS, ESQUIRE

11 MICHELLE TUCKER, ESQUIRE

12  
13  
14  
15  
16  
17  
18  
19  
20 ALSO PRESENT:

21 BRANDON BRANTLEY, Videographer

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2 THE VIDEOGRAPHER: This will be the video  
3 deposition of Dante J. McKay, being taken in  
4 the matter of United States of America versus  
5 State of Georgia.

6 Today's date is January 27, 2022.

7 The time on the record is 10:07 a.m.

8 My name is Brandon Brantley. I'm the  
9 videographer.

10 Counsel, please introduce yourselves for  
11 the record, after which the court reporter will  
12 swear in the witness.

13 MR. HOLKINS: Patrick Holkins for the  
14 United States.

15 MS. COHEN: Frances Cohen for the United  
16 States.

17 MS. HUGHES: Aileen Bell Hughes with the  
18 U.S. Attorney's Office and representing the  
19 United States.

20 MS. HERNANDEZ: Danielle Hernandez, State  
21 of Georgia.

22 MR. PICO PRATS: Javier Pico, State of  
23 Georgia.

24 MR. HOLKINS: Could the folks on Zoom  
25 introduce themselves, please.

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1 MS. WOHLLENHAUS: Renee Wohlenhaus for the  
2 United States.

3 MS. GARDNER: Kelly Gardner for the United  
4 States.

5 MS. HAMILTON: Andrea Hamilton for the  
6 United States.

7 MS. LILL: Victoria Lill for the United  
8 States.

9 MS. TAYLOE: Laura Tayloe for the United  
10 States.

11 MS. TUCKER: Michelle Tucker for the  
12 United States.

13 MS. CHEVRIER: Claire Chevrier for the  
14 United States.

15 MS. SOLLARS: Lauren Sollars for the  
16 United States.

17 - - - - -

18 DANTE T. McKAY,  
19 being duly sworn, was examined and testified as  
20 follows:

21 EXAMINATION

22 BY MR. HOLKINS:

23 Q Good morning, Mr. McKay. How are you?

24 A Doing well. Good morning.

25 Q We appreciate you coming today.

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1 For the record, could you state your name,  
2 please.

3 A Dante T., for Tremaine, McKay, not J.

4 Q Thank you for that clarification.

5 MR. HOLKINS: I'll note for the record  
6 this is the deposition of Dante McKay in the  
7 lawsuit entitled United States v. Georgia, Case  
8 No. 1:16-CV-03088.

9 BY MR. HOLKINS:

10 Q I'd like to just walk through some  
11 instructions and kind of a roadmap for the day  
12 before we get started.

13 We've got a lot of work to do, a lot of  
14 ground to cover, but I'm not interested in making  
15 this unnecessarily difficult or uncomfortable. So  
16 toward that end, we'll be taking breaks at least  
17 every 90 minutes.

18 If you would like to take a break before  
19 that time, just let me know.

20 MR. HOLKINS: The same goes for counsel.

21 Q The one request I have, though, is if a  
22 question is pending, that you answer the question  
23 before we take a break. Is that all right?

24 A Yes.

25 Q I'll note that the deposition is being

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1 recorded, both by transcription and by video.

2 For clarity of the record, I ask that you  
3 speak at a measured pace, clearly. It will be also  
4 helpful if you could speak up in general. I'll note  
5 that I have a hearing loss, as does my co-counsel  
6 Fran Cohen. So we greatly appreciate your  
7 assistance with that.

8 In general, when responding, it would be  
9 helpful for the record if you could say yes or no,  
10 versus uh-huh or other responses that are not words.

11 Does that make sense?

12 A Yes.

13 Q I ask that you in general let me finish  
14 questions before you start answers. Again, just so  
15 the record is clear. Is that okay?

16 A Yes.

17 Q At times your counsel may have objections  
18 to questions that I ask. We ask that you answer  
19 those questions even if they are objected to, unless  
20 you're instructed not to answer.

21 Does that make sense?

22 A Yeah.

23 (WHEREUPON, Plaintiff's Exhibit-1 was  
24 marked for identification.)  
25

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what is  
3 marked Exhibit 1. Please take a moment to review  
4 the document and let me know when you've finished.

5 (Witness reviews exhibit.)

6 A Okay.

7 Q I'll represent for the record that this is  
8 the notice we served on the State for your  
9 deposition in this matter.

10 Mr. McKay, have you seen this document  
11 before?

12 A Yes.

13 Q And who showed you this document?

14 A Outside counsel.

15 Q When did that happen?

16 A Last week, I believe.

17 Q And before you received a copy of this  
18 notice last week, had you heard about this case?

19 A Yes.

20 Q And when did you first hear or learn about  
21 this case?

22 A I don't recall exactly. It's been a  
23 couple of years.

24 Q Is it something that you learned about  
25 after joining DBHDD in your current role?

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1 A Yes.

2 Q And I'll just -- we're going to go through  
3 some acronyms but I'll note now for the record that  
4 DBHDD is the Department of Behavioral Health and  
5 Developmental Disabilities. Is that correct?

6 A Yes.

7 Q Mr. McKay, what is your understanding of  
8 what this case is about?

9 A My understanding about this case is that  
10 the Department of Justice has brought a lawsuit  
11 against the State of Georgia because of thinking  
12 that the GNETS program or system is, I guess,  
13 against the law.

14 Q Thank you.

15 Mr. McKay, do you understand your  
16 testimony today is under oath?

17 A Yes.

18 Q And do you understand that being under  
19 oath means you have an obligation to tell the truth?

20 A Yes.

21 Q Is there any reason at all why you cannot  
22 testify accurately and truthfully today?

23 A No.

24 Q Are you taking any medication or other  
25 substance that would interfere with your ability to

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1 answer my questions fully and truthfully today?

2 A No.

3 Q Have you ever been deposed before?

4 A No.

5 Q Have you ever been a plaintiff or  
6 defendant in a lawsuit?

7 A No.

8 Q So I'm going to be using some acronyms  
9 throughout the deposition, and I just want to run  
10 through them to make sure we're on the same page  
11 about what they mean. Is that all right?

12 A Yes.

13 Q I gave the first one already, which is  
14 DBHDD, and when I use that, that will be referring  
15 to the Georgia Department of Behavioral Health and  
16 Developmental Disabilities.

17 A Yes.

18 Q And when I refer to "DCH," do you  
19 understand I am referring to the Georgia Department  
20 of Community Health?

21 A Yes.

22 Q And likewise when I refer to "Georgia  
23 DOE," will you understand I'm referring to the  
24 Georgia Department of Education?

25 A Yes.

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1 Q And when I use the term "CMO," will you  
2 understand that I'm referring to Care Management  
3 Organizations?

4 A Yes.

5 Q When I use the term "general education  
6 setting," that will mean a public school in Georgia  
7 where children with SED -- excuse me. A public  
8 school in Georgia where children with serious  
9 emotional disturbances and other behavioral health  
10 conditions receive instruction and services  
11 alongside children who do not have disabilities.  
12 Does that make sense?

13 A Can you repeat that?

14 Q When I refer to "general education  
15 settings," what I mean is a public school in Georgia  
16 where children with behavioral health conditions  
17 receive instruction and services alongside children  
18 who do not have disabilities. Does that make sense?

19 A Yes.

20 Q When I refer to "GNETS," will you  
21 understand that I'm referring to Georgia Network for  
22 Education -- excuse me -- Educational and  
23 Therapeutic Support?

24 A Yes.

25 Q And then, finally, I'll be using the term

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1 "OCYF," which means Office of Children, Young Adults  
2 and Families, correct?

3 A Correct.

4 Q You can go ahead and set aside that first  
5 document. Thank you.

6 I'd like to ask just a few questions about  
7 your educational background.

8 Do you have a college degree, Mr. McKay?

9 A Yes.

10 Q From where?

11 A From Clark Atlanta University.

12 Q When did you obtain that degree?

13 A In May 1997.

14 Q In what field?

15 A Public relations.

16 Q And do you have a professional degree?

17 A Yes. I have a Master's in public  
18 administration from Baruch College, City University  
19 of New York, and a juris doctor from Southern  
20 University Law Center.

21 Q When did you obtain your JD?

22 A In May 2007.

23 Q Are you currently licensed to practice  
24 law?

25 A No.

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1 Q Mr. McKay, you're currently employed by  
2 the State of Georgia, correct?

3 A Correct.

4 Q And what is your current job title?

5 A Director, Office of Children, Young Adults  
6 and Families, in the Behavioral Health Division.

7 Q In the DBHDD, correct?

8 A Correct.

9 Q And when did you assume that position?

10 A February 16, 2016.

11 (WHEREUPON, Plaintiff's Exhibit-2 was  
12 marked for identification.)

13 BY MR. HOLKINS:

14 Q Mr. McKay, you've just been handed what's  
15 been marked Exhibit 2. Please take a minute to  
16 review the document and let me know when you're  
17 finished.

18 (Witness reviews exhibit.)

19 A Yes, I've reviewed the document.

20 Q Thank you.

21 MR. HOLKINS: I'll note for the record  
22 that this document was produced by the State to  
23 the United States in this matter.

24 The Bates No. is GA00000022.

25 BY MR. HOLKINS:

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1 Q I'll represent that this document is a job  
2 listing posted December 22nd, 2015, for the position  
3 of Director, Children, Young Adults and Families at  
4 DBHDD.

5 Mr. McKay, have you seen this document  
6 before?

7 A Yes.

8 Q Was this the posting that you responded to  
9 that led to you assuming your current position?

10 A I believe so, yes.

11 Q You can set this one aside. Thank you.

12 We'll talk in more depth about your  
13 current position, but I first want to go backwards  
14 for a little bit and get a sense of what positions  
15 you held prior to your current role.

16 And so I'll ask first, have you been  
17 employed with the State of Georgia in any other  
18 capacity?

19 A No.

20 Q And just prior to joining DBHDD in your  
21 current role, where were you working?

22 A I was a state director for Enroll America.

23 Q What is Enroll America?

24 A Enroll America was a national nonprofit  
25 with a dozen or so offices around the country, that

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1 worked to provide public education around the  
2 Affordable Care Act.

3 Q I'm sorry -- state director, got it.  
4 Thank you.

5 How long were you in that role in enroll  
6 America?

7 A I believe I joined in 2013. August of  
8 2013.

9 Q And you were in that role until you became  
10 a director of OCYF, correct?

11 A Yes. That was -- Enroll America was a  
12 time-limited endeavor. It was related to the  
13 roll-out of the Affordable Care Act. So it was  
14 always designed to sunset.

15 I closed the office in anticipation that  
16 -- I started looking for additional employment in  
17 anticipation that we were wrapping up our work, and  
18 so my tenure with Enroll America ended the week  
19 prior to when I started with the State.

20 Q And could you briefly describe what your  
21 responsibilities were in your position at Enroll  
22 America?

23 A I managed a statewide team that provided  
24 public education about what the Affordable Care Act  
25 was, qualifications, how to enroll in coverage if

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1 interested. That was it pretty much.

2 Q I'd like to go back just once more to the  
3 job that you may have had before Enroll America.  
4 Did you have a position outside of that organization  
5 before you joined Enroll America?

6 A Yes. Immediately prior to Enroll America,  
7 I was the health policy director for Voices for  
8 Georgia's Children, a statewide advocacy  
9 organization based here in Georgia.

10 Q Could you describe the work that Voices  
11 for Georgia's Children does?

12 A Public education outreach, advocacy, focus  
13 on increasing access to services for children,  
14 families. Attended a lot of legislative meetings  
15 and agency meetings, board meetings.

16 Provided things like public comments,  
17 advocated for or against particular bills, issued  
18 research reports.

19 Q What drew you to your current position?

20 A It was open at the time. I was looking at  
21 the time. I had the requisite educational  
22 background and experience. I applied and I got the  
23 job.

24 (WHEREUPON, Plaintiff's Exhibit-3 was  
25 marked for identification.)

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's  
3 been marked Exhibit 3. Please take a moment just to  
4 familiarize yourself or refamiliarize yourself with  
5 the document. You don't need to read every word but  
6 just let me know once you've finished.

7 (Witness reviews exhibit.)

8 A I've reviewed the document.

9 Q Thank you.

10 MR. HOLKINS: I'll note for the record  
11 that this document was produced by the State to  
12 the United States in this matter.

13 The Bates number is GA00249775.

14 BY MR. HOLKINS:

15 Q At the top of the document is a text  
16 Increase Review/Request, Dante McKay, 4/7 -- excuse  
17 me -- 4/27/20.

18 Mr. McKay, is it correct you submitted  
19 this document in April of 2020 in support of a  
20 request for a personal salary increase?

21 A I don't remember the exact date, but that  
22 sounds about right, yes.

23 Q And this document outlines your activities  
24 and responsibilities from February 2016 to the date  
25 of the request, correct?

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1 A Correct.

2 Q Could you flip to Pages 10 and 11 of the  
3 document.

4 I direct your attention to the section  
5 titled, "Job Description (from 2015/2016)."

6 Do you see where I am?

7 A Yes.

8 Q Is this job description for your position  
9 still accurate?

10 Have there been any changes?

11 A The second bullet no longer applies.

12 Q And the second bullet, just for clarity,  
13 is "Develops annual strategic plan for C&A community  
14 health services delivery system." Is that correct?

15 A That's correct.

16 Q What does C&A stand for?

17 A Child and adolescent.

18 I do not produce an annual strategic plan.

19 Q When did that stop?

20 A I have not done that during my tenure.

21 Q Is there another staff member at DBHDD who  
22 is responsible for developing annual strategic plans  
23 for child and adolescent community health services?

24 A Not that I'm aware of.

25 Q I'd like to ask you some questions about

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1 some of the other bullets on this job description,  
2 just to better understand your duties and  
3 responsibilities.

4 A Well, there are a couple of others that  
5 also --

6 Q Please, go ahead.

7 A Okay. The bullet that refers to Director  
8 of Federal Grants and Suicide Prevention, those have  
9 been modified as well, as the division structure has  
10 changed, and that office was combined with a couple  
11 of other offices.

12 And so I'm not remembering the official  
13 title now, but it's no longer the Federal Grants for  
14 Suicide Prevention Office.

15 Q Okay.

16 A I think it's Office of Behavioral Health  
17 Promotion and Federal Grants Initiatives.

18 Q When did that change occur?

19 A I don't remember exactly but over time,  
20 over the last three years or so.

21 Q Any other changes?

22 A I think there's one more.

23 The second-to-last bullet, I do not  
24 participate in a CYF quality committee.

25 Q This is on Page 11, correct?

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1 A Correct.

2 Q Could you briefly describe what the CFY  
3 Quality Committee is?

4 A I cannot. I do not know what that is.

5 Q Do you know if it exists?

6 A It does not exist, to my knowledge.

7 There is a meeting titled, "Joint  
8 Clinical," that the Division holds, that I or my  
9 team members participate in, and in that meeting we  
10 review quality matters, but there is no CYF  
11 standalone quality committee.

12 Q So just to make sure I understand, at  
13 those Joint Clinical meetings would you review poor  
14 performing providers, specifically within the  
15 context of children and adolescent services?

16 A The performance of a provider may come up  
17 during the course of discussing a particular outcome  
18 or challenges with services. It's more of a  
19 clinical case staffing, broadly, not necessarily  
20 focused on if a provider is performing well, average  
21 or below average.

22 Q Do you participate in or conduct any  
23 regular assessment of performance for C&A providers?

24 A I have and my team has evaluation tools  
25 that we review at regular intervals on an aggregate

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1 level, but there are offices specifically in the  
2 Division that review quality and compliance and  
3 those sorts of things.

4 My review is more from a programmatic  
5 aspect.

6 Q Could you identify the offices within  
7 DBHDD that would be responsible for reviewing  
8 quality and compliance?

9 A I don't, I don't recall the exact name.  
10 We have gone through a bit of a restructure over the  
11 last couple of years or so.

12 That office formerly set in a different  
13 division at DBHDD, but I think that division has  
14 been absorbed into the other divisions within the  
15 department. But we just generally refer to it as  
16 compliance.

17 Q Do you have a specific staff member in  
18 that compliance area that you would interact with?

19 A Not a specific staff member, no.

20 Q So I just for a second would like to put  
21 this document aside and show you another one, but  
22 we're going to return to this document.

23 A Okay.

24 (WHEREUPON, Plaintiff's Exhibit-4 was  
25 marked for identification.)

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've been handed what's been  
3 marked Exhibit 4. Please take a moment to  
4 familiarize yourself with the document.

5 (Witness reviews exhibit.)

6 A I've reviewed the document.

7 Q Thank you.

8 MR. HOLKINS: I'll note for the record  
9 that this document was produced by the State to  
10 the United States in this matter.

11 The Bates number is Georgia000009.

12 MS. COHEN: Is this Exhibit 4, Patrick?

13 MR. HOLKINS: Yes, this is Exhibit 4.

14 MS. COHEN: Thank you.

15 BY MR. HOLKINS:

16 Q So, Mr. McKay, this document appears to be  
17 DBHDD's organizational structure. Is that accurate?

18 A I've seen many versions of this over the  
19 -- during my tenure at the department, and looking  
20 at this I do recognize many of the names, but it  
21 appears to be dated.

22 Q Could you identify the ways in which it's  
23 dated?

24 A It's dated in terms of the structure has  
25 changed and the representatives reflected here have

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1 also changed.

2 MR. HOLKINS: So I'll just note for  
3 counsel that I believe this is the most current  
4 version of the org chart that we have. So  
5 we'll be asking for an updated version of the  
6 org chart.

7 BY MR. HOLKINS:

8 Q Could you flip to Page 4 of the document.  
9 And this is the page with Monica Johnson at the top.  
10 Do you see that?

11 A Yes.

12 Q Have there been any changes either to the  
13 structure or the personnel of the org chart for this  
14 page?

15 A Yes.

16 Q What are they?

17 A There is an assistant director for the  
18 division, Adrian Johnson. So Monica is the  
19 director. Adrian is the assistant director.

20 He also maintains his director of field  
21 operations responsibility.

22 Some of the positions that reported  
23 directly to Monica here have gone over Adrian. I  
24 don't know exactly all of them, but one of those --  
25 well, I strike that.

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1 I was going to say one of those would be  
2 the Office of Crisis Coordination, but I think that  
3 has gone back to Monica.

4 Debbie Atkins is no longer in that role.

5 Dawn Peel, who is referenced here for  
6 Region 2, has now moved over to the Office of Crisis  
7 Coordination.

8 Q And is Dawn Peel in the role that Debbie  
9 Atkins was in previously?

10 A Correct.

11 Q Who is now in Dawn Peel's role?

12 A That role is vacant, to my knowledge.

13 Q Do you still report directly to Monica  
14 Johnson?

15 A Yes, I do.

16 Jill Mays -- so this is the office that I  
17 referenced earlier that was consolidated with the  
18 Office of Behavioral Health Prevention.

19 So Travis Tretwell retired. Jill Mays is  
20 now director of both of those offices, refigured,  
21 with a different title.

22 Q Thank you very much.

23 A Deaf services does have a full-time  
24 director now. And housing, there's a housing --  
25 Office of Supportive Housing.

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1 Q And who is in that role?

2 A The office -- which one?

3 Q I'm sorry. I think you mentioned there is  
4 a new Office of Supportive Housing; is that correct?

5 A Yes. The director is Maxwell Rupersberg.

6 MS. COHEN: I'm sorry, I'm having trouble  
7 hearing. I am a little hard of hearing and  
8 you're wearing a mask.

9 If you could speak up, I appreciate it.

10 THE WITNESS: Okay.

11 Q Thank you.

12 A Should I repeat the last statement?

13 Q That would be great.

14 A There is an Office of Supportive Housing.  
15 The director is Maxwell Rupersberg.

16 And the Office of Deaf Services is no  
17 longer vacant.

18 Q So I'd like to skip ahead a few pages to  
19 the Division of Performance Management and Quality  
20 Improvement Organization.

21 Do you see that?

22 A Yes.

23 MR. HOLKINS: And just for the record,  
24 this is Georgia 000015.

25 BY MR. HOLKINS:

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1 Q Have there been any changes to this page?

2 A Yes. There has been some consolidation of  
3 divisions.

4 There was also a reduction in force the  
5 summer of 2020, and most of the department has  
6 worked remote since the pandemic.

7 So with all of that change, I'm uncertain  
8 if all of these people are still employed. I do  
9 know, I believe, that Lynn Copeland has retired from  
10 that position.

11 Q Do you know if Melissa Sperbeck is still  
12 in her role as director of the Division of  
13 Performance Management and Quality Improvement?

14 A She's the director of the new division, of  
15 the title that I don't know. But --

16 Q If you flip -- sorry. Go ahead.

17 A But I think she retained the  
18 responsibility -- many of the responsibilities for  
19 this particular role.

20 Q Are you able to describe what Ms.  
21 Sperbeck's responsibilities are in her current role?

22 A No, I'm not.

23 Q If you could flip to the last page. This  
24 identifies the Division of Accountability and  
25 Compliance Organization.

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1 A Yes, I have it.

2 Q Are you aware of any change to this page?

3 A Yes, I am.

4 Q What are they?

5 A Robert Dorr retired, and many of these  
6 functions were absorbed in other areas within the  
7 department.

8 Q Are you able to describe broadly what the  
9 Division of Accountability and Compliance  
10 Organization did before this restructuring?

11 A This is where the -- when you asked the  
12 question about, I guess, performance, evaluating  
13 performance of providers, that happened in this  
14 division.

15 Two people that I may interface with when  
16 I broadly referred to compliance would be Terri  
17 Kight and Jennifer Rybak, and Kenneth Ward --  
18 whenever there is a corrective action plan issued  
19 for a particular provider, based upon some analysis,  
20 when I have been copied Kenneth Ward has been the  
21 sender of those corrective action plans, or CAPs.

22 Q Does Mr. Ward assess whether the  
23 corrective action plan has been implemented  
24 appropriately, or is that someone else's job?

25 A I do not know the answer to that.

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1 Kenneth Ward now reports directly to my  
2 director, Monica Johnson.

3 Q I believe you said that Robert Dorr has  
4 retired; is that correct?

5 A Yes, that's correct.

6 Q And has someone filled that vacancy, or  
7 has the position been eliminated?

8 A This division has been, to my knowledge,  
9 dissolved and the responsibilities added elsewhere  
10 in various places within the department.

11 Q So let's set this document aside and  
12 return to Exhibit 3.

13 Back on Page 10, one of the  
14 responsibilities listed is "Manages the CFY  
15 Community Mental Health Budget."

16 Do you see that line?

17 A I do.

18 Q Could you describe what that entails?

19 A So I do this in combination with a budget  
20 office and budget team, but broadly my role is to be  
21 aware of what the appropriations are for that  
22 annually, and along with other members of my team or  
23 my office or within -- across other offices is to  
24 monitor that utilization and expenditures  
25 month-to-month and annually.

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1 Q Just to make sure I understand, why are  
2 you monitoring utilization and expenditures  
3 month-to-month and annually?

4 A To make sure you don't overspend or  
5 underspend.

6 Q And what are the consequences of  
7 underspending?

8 A Underutilization, broadly downstream, you  
9 want to make sure that you are maximizing the  
10 funding that's available to you so that the  
11 individuals intended for the services are getting  
12 them.

13 Q And does your analysis of utilization and  
14 expenditures inform the budget proposals that you  
15 make for CYF services?

16 A I do not make budget proposals.

17 Q Who is responsible for that?

18 A I'll say broadly our finance team. Maybe  
19 the CFO.

20 From time to time I may make budget  
21 requests, and as part of our annual, I guess,  
22 budgeting process, that may get included, it may not  
23 get included.

24 Q To whom do you make those requests?

25 A It varies. And the format for the request

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1 varies.

2 But, generally speaking, that would go to  
3 either my director, that may go to a deputy  
4 commissioner, or it may go to -- directly to the  
5 budget office, the DBHDD budget office.

6 Q Just to make sure the record is clear,  
7 when you say "my director," are you referring to  
8 Monica Johnson?

9 A Correct.

10 Q And who is in the deputy commissioner role  
11 at DBHDD?

12 A There are two now. Ashley Fielding is  
13 one, and Jeff Minor is the other.

14 Q And who is the DBHDD budget officer?

15 A Mary Price is the CFO.

16 Q Could you give us some examples of the  
17 kinds of budget requests you would make to any of  
18 those individuals?

19 A For -- for example, a school-based mental  
20 health budget request would be -- based upon some  
21 formal or research or annual report, I may say we  
22 would like to request an additional sum of money for  
23 this particular program. Sometimes in response to  
24 that I may receive certain questions to vet the  
25 request. Other times I may just receive

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1 acknowledgment of receipt.

2 From there, I don't know what happens.

3 Q And have you made requests for  
4 school-based mental health budget items that have  
5 been approved?

6 A So there's an active request now for an  
7 increase that -- my understanding it's being  
8 considered as part of this current legislative  
9 session.

10 Last legislative session we received an  
11 increase of \$2 million, but that was not in response  
12 to a specific ask from myself or my team.

13 And then prior to that, in Governor Deal's  
14 last office -- last year in office, there was a --  
15 there was a commission, Georgia -- the Commission  
16 for Children's Mental Health, where one of the  
17 recommendations was to increase the school-based  
18 budget for my office, and we received an increase  
19 that year. I think it was just over \$4 million.

20 That wasn't in -- I think we had a broad  
21 ask when, you know, we were being asked about what  
22 needs were and, you know, the things that we want to  
23 see happen, but we didn't make a specific ask but we  
24 received an increase.

25 Q And how much additional funding is the

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1 current request for, the one that's pending?

2 A I don't remember the number exactly. I  
3 think it's in the ballpark of \$5 million.

4 Q And what is -- how would you want to  
5 allocate that additional funding?

6 A To sustain the last expansion of the  
7 school-based program, which we refer to as Apex, and  
8 in Governor Kemp's first year in office he  
9 recommended and the legislature approved a one-time  
10 allocation of \$8.4 million.

11 And we have asked for annualization of  
12 half of that, that appropriation, in addition to  
13 restoration of some funds that were lost during our  
14 budget reduction a couple years back.

15 Q I just want to make sure the record is  
16 clear that that one-time allocation, was it 1.8  
17 million or 8. --

18 A I believe it was 8.4 million.

19 Q Thank you.

20 So, in your view, is this \$5 million  
21 allocation that you've requested necessary to  
22 sustain the Apex program at its currently level?

23 A To sustain the last expansion of the Apex  
24 program at its current level, yes.

25 Q We're going to skip ahead a little bit

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1 here. We're going to talk a lot about Apex later,  
2 but I'm just -- since we're talking about it now,  
3 could you describe what that last expansion  
4 entailed?

5 A Apex is a single statewide program, and it  
6 has -- we use different titles for it based upon the  
7 funding sources that are supporting it. Single  
8 program supported by multiple fund sources.

9 Apex 1.0 is supported by the core CYF  
10 budget. Apex 2.0 was annualized funding that we  
11 received by way of the recommendations from Governor  
12 Deal's Commission on Children's Mental Health. And  
13 Apex 3.0 was funding received by way of Governor  
14 Kemp, which was a one-time appropriation.

15 Q Thank you.

16 Through that Apex 3.0 appropriation, how  
17 many additional schools were enrolled in the  
18 program?

19 A I don't know off the -- I don't know that  
20 amount. It's a rolling program.

21 Q Is it fair to say there are schools that  
22 were previously not participating in Apex that now  
23 are participating in Apex because of Apex 3.0?

24 A Yes.

25 Q More than 10?

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1 A I would say more than 10.

2 Q More than 50?

3 A I can't say it's more than 50. It would  
4 be speculation.

5 Q Is there a document that you could refer  
6 to that would give you a more specific figure for  
7 the number of schools that were enrolled through  
8 Apex 3.0?

9 A There is a document. So we receive  
10 regular reporting on the number of schools,  
11 organized by fund source. Typically, it's just a  
12 listing. It is not numerized.

13 Q Thank you.

14 So while we're on the topic of budgeting,  
15 I want to show you another document. Can you set  
16 aside Exhibit 3 just for a minute.

17 (WHEREUPON, Plaintiff's Exhibit-5 was  
18 marked for identification.)

19 BY MR. HOLKINS:

20 Q So you've just been handed what's been  
21 marked Exhibit 5.

22 MR. HOLKINS: I'll note for the record  
23 that this document was produced to us by the  
24 State, by I mean the United States.

25 The Bates number is GA00051873.

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1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a minute to review  
3 the document and let me know when you've finished.

4 (Witness reviews exhibit.)

5 A I've reviewed the document.

6 Q Have you seen this before?

7 A I have seen various versions of what looks  
8 like this. But please allow the record to reflect  
9 that I cannot read this -- the last couple of pages.  
10 It's very small.

11 Q I'm sorry for that. This is how it  
12 printed out. We can just speak generally about the  
13 document.

14 I'll note the file name for the document  
15 is "Budget Tracking Summary, Updated 7.10.2020."

16 On the first page, which I think you can  
17 read -- are you able to read the first page?

18 A I am.

19 Q This identifies DBHDD programs as well as  
20 the FY2020 base budget, and then a 14 percent, 11  
21 percent, and 10 percent reduction to that base  
22 budget.

23 Is that accurate?

24 A The reductions I think were proposed based  
25 upon various factors that were going on at the time.

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1 Q So I'll just first note that among the  
2 DBHDD programs listed is C&A MH.

3 Do you see that text?

4 A I do.

5 Q Does that stand for child and adolescent  
6 -- or Children and Adolescent Mental Health?

7 A It does.

8 Q Is that broadly the budget for your  
9 office?

10 A Yes, that's correct.

11 Q So you mentioned that these were reduction  
12 proposals made based on various factors. My  
13 question is whether you had any involvement in the  
14 proposed reduction for C&A MH?

15 A Yes.

16 Q Can you describe your involvement?

17 A My involvement was to respond to requests  
18 from our budget team. You know, there were various,  
19 I guess, questions made in terms of program  
20 locations, program liability, staffing factors.

21 There was a -- there was a particular  
22 number that we needed to get under, whether it was  
23 14, 11, or 10 percent, and in an effort to get under  
24 that number, as a part of global work going on at  
25 the agency, we were asked to respond to, you know,

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1 several questions about certain things. And then  
2 based upon that feedback, some decisions were made.

3 So in terms of what's listed here, the  
4 \$71.5 million, I can't confirm that that's the exact  
5 amount. That seems about right. The more recent  
6 version of the budget that I've seen was around \$49  
7 million.

8 Q Would that be for FY2022?

9 A I don't know if it's the current fiscal  
10 year or the upcoming fiscal year.

11 Q So it's fair to say there's been a  
12 meaningful reduction in your office's budget between  
13 FY2020 and the current fiscal year; is that correct?

14 A That is correct.

15 Q Is it also accurate that you were  
16 functionally making recommendations about where to  
17 cut money from your own budget; is that right?

18 A I would rephrase it to say I was asked  
19 questions about impact to -- if a program was cut,  
20 what would be the impact, based upon various  
21 factors.

22 Q What recommendations did you make for  
23 where to make these cuts?

24 A I don't remember specifically, but it was  
25 a full view of the programs within my office, to

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1 include things like youth mental health clubhouses,  
2 Apex, funding to core providers.

3 It was just a broad view of if this were  
4 to go away, what would be the impact. If this was  
5 reduced, what do you think would be the impact?

6 I can't give specifics. It was a moving  
7 target, very quickly, and a lot to consider.

8 Q Do you recall ultimately where those  
9 budget cuts were made?

10 A I could name two specifics, but -- or two  
11 generalities, but overall cuts, I don't remember  
12 offhand.

13 There was a reduction to the Apex program,  
14 and then there was a reduction to the youth mental  
15 health clubhouses around the State. I believe we  
16 reduced by three. Three were closed.

17 Q And you -- first off, you referenced core  
18 providers. What are those?

19 A So DBHDD has a three-tier provider  
20 network. Tier 1 would be our safety net for -- that  
21 serves uninsured individuals or underinsured.  
22 They're referred to as community service boards.  
23 Tier 1 providers are core providers.

24 Tier 2 are traditionally Medicaid. They  
25 bill Medicaid for services, but there are Tier 2

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1 providers that also have contracts with my agency.

2 And then Tier 3 are specialty providers.

3 For child and adolescent services most of  
4 the providers in Tier 1 and Tier 2 also fit into  
5 Tier 3. Some Tier 2 providers are core providers  
6 but not all are core providers. And simply what  
7 that means is they have access to state funds,  
8 either through a contract or through a kind of  
9 funding line that is managed by, by others within  
10 the agency.

11 I don't know exactly who is involved in  
12 managing the account. I just simply know that it  
13 works.

14 So, for example, say provider X may be  
15 approved for a million dollars to serve the  
16 indigent. That fund was reduced. I don't know the  
17 exact amounts, but across the board those funds  
18 available to core providers were reduced.

19 Q And just one more question about core  
20 providers. What is required to become a core  
21 provider? Is there an expectation that you can  
22 provide a certain set of services?

23 A There are extensive criteria that is  
24 managed and tracked by our Office of Provider  
25 Enrollment.

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1 Q Where did the instruction come from to  
2 make recommendations about where this reduction  
3 should occur?

4 A There were not instructions as to where it  
5 should come from.

6 Q Let me rephrase.

7 Who at DBHDD asked you to make  
8 recommendations with respect to this reduction?

9 A Various members of our budget team were  
10 leading this work. The budget team is led by our  
11 CFO.

12 We have a budget director and we have a  
13 division budget director, and then we have staff  
14 that support them.

15 So it was rolling and ongoing.

16 Q And to your knowledge, is DBHDD  
17 Commissioner Judy Fitzgerald involved in making the  
18 recommendations or decisions with respect to budget  
19 reductions?

20 A I don't know the answer to that.

21 Q Do you discuss the reductions at all with  
22 your direct supervisor, Monica Johnson?

23 A Broadly speaking, I'd say that's fair to  
24 say.

25 Q Let's set this aside and go back to

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1 Exhibit 3, and we'll stick with it this time.

2 I want to direct you to the third bullet  
3 on Page 10, which reads: "Writes policy for CYF MH  
4 services and payments on the oversight team."

5 Do you see that?

6 A Yes, I do.

7 Q Could you describe what writing policy for  
8 mental health services entails?

9 A There is a -- the DBHDD policies are  
10 housed on an electronic database called Policy Stat.

11 In my tenure, I may have had limited  
12 participation in updating a policy. I have not  
13 introduced a new policy.

14 And then the other area, what we refer to  
15 as the DBHDD Behavioral Health Provider Community  
16 Manual, that's updated quarterly.

17 I participate in something called  
18 Concurrence, where we review proposed changes.

19 I have made proposed changes over the  
20 years, and then if approved by the group, majority  
21 approval, then those changes get updated in the  
22 provider manual and published.

23 Q So, first off, who participates in this  
24 group? I think you called it -- is it Concurrence?

25 A Yes.

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1 Q Who are the participants in Concurrence?

2 A Typically would be other office directors.  
3 So the directors of the offices within the  
4 Behavioral Health Division.

5 Q So your counterpoints at the other  
6 divisions; is that right?

7 A Other offices within our division.

8 Q Okay, thank you.

9 A Sometimes there may be representatives  
10 from other divisions, if there's a broad impact or  
11 cross-cutting impact. But there's -- sometimes --  
12 there's like core membership, which would be the  
13 behavioral health directors, and then sometimes  
14 there's additional members based upon what is being  
15 proposed.

16 Q So with apologies, I just want to make  
17 sure we're tracking this. Could we look back to  
18 Exhibit 4, which is the org chart.

19 I know there have been some changes to  
20 this document, but I'm hoping you can identify in  
21 the document who would be the other behavioral  
22 health directors.

23 A So if you go to Page 12, Division of  
24 Behavioral Health, these would be the directors that  
25 participate.

1 Not all. I would say core participants  
2 would be myself; the director for the Office of  
3 Addictive Disease, which is still Cassandra Price;  
4 Dr. Terri Timberlake Briscoe, who is the director of  
5 the Office of Mental Health. And others would be ad  
6 hoc, as needed.

7 Q What year do you think this version of the  
8 DBHDD org chart is from?

9 MR. PICO PRATS: Objection; speculation.

10 Q You can answer.

11 MR. PICO PRATS: You can answer.

12 A I don't know per se. I would say it's at  
13 least, at least two years old.

14 Q Thank you.

15 So setting aside Exhibit 4, and sticking  
16 with Concurrence, under the core members of that  
17 group or the other behavioral health directors, I'm  
18 wondering whether you ever had participation from  
19 other child serving state agencies in Georgia, like  
20 Georgia DOE?

21 A No.

22 Q Does the GNETS program director ever  
23 participate in Concurrence?

24 A No. This is internal to DBHDD.

25 Q Okay.

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1 A Mostly the Behavioral Health Division.

2 Q Do individuals at Georgia DOE have  
3 opportunities to provide input on changes made to  
4 DBHDD's provider manual?

5 A I don't know the answer to that. I don't  
6 know the answer.

7 Q That's okay. Let me try it another way.  
8 Have you ever had direct coordination with  
9 staff at Georgia DOE regarding DBHDD's provider  
10 manual?

11 A No, I haven't.

12 Q What about at DCH?

13 A Possibly. There -- so the way it would  
14 work -- so I have not had any specific conversations  
15 about the provider manual, adding or taking  
16 something out, but the way it could work is, as  
17 we're partnering across child serving agencies, if  
18 there was a conversation or general agreement about  
19 something that could be reconciled with a policy  
20 change to Policy Stat or the provider manual, then I  
21 could go back and introduce something to make a  
22 tweak or addition that would align with, you know,  
23 general consensus.

24 That could happen normally with other  
25 agency partners, or it could happen without their

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1 knowledge.

2 Could it have happened, changes been made  
3 over the years without their knowledge? Possibly.

4 But there have not been any specific  
5 conversations about specific policies or provider  
6 manual the agency partners asked us to make, that we  
7 did make or did not make.

8 Q And would that also apply, that statement,  
9 would that apply to conversations with GNETS'  
10 program director as well?

11 A It would not apply to GNETS program  
12 directors.

13 My interaction with GNETS program  
14 directors has been little to none.

15 Q Is that true since you assumed this  
16 position in February 2016?

17 A Yes, that's correct.

18 Q You mentioned that you have had  
19 opportunities and at times have actually made  
20 recommendations for changes to the provider manual.

21 Is that accurate?

22 A Yes, that's correct.

23 Q What informs those recommendations?

24 A The need to memorialize programming or to  
25 update changes made programmatically to programming.

1 For example, Apex program, relatively  
2 speaking, is a newer program. It started in the  
3 year 2016. It started in the absence of a specific  
4 policy or reference to the program within the  
5 provider manual.

6 After operating -- after coming on board  
7 in 2016 and operating the program for a couple of  
8 years and it growing and our making tweaks along the  
9 way based upon learnings or things that we saw, we  
10 added a service guideline to the provider manual  
11 about the Apex program.

12 Q So I'd like to jump to another bullet in  
13 this list.

14 A Which list?

15 Q Give me one second.

16 This is on the last page, Page 11, third  
17 to last bullet, which reads: "Monitor CYF service  
18 utilization, requirements and provide overall  
19 planning for ongoing utilization and guidelines."

20 Do you see that bullet?

21 A I do not. Which page?

22 Q This is Page 11, the third to last bullet  
23 at the bottom.

24 A Oh, third-to-last.

25 Yes, I see that bullet.

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1 Q Could you describe what monitoring CYF  
2 utilization entails?

3 A It would be to look at things like the  
4 number of youth served, unique youth, services  
5 provided. Whether it was -- an example of that  
6 would be individual counseling or group counseling  
7 or family counseling. And to track that from  
8 month-to-month and annually.

9 Q Do you receive regular reports in  
10 connection with this responsibility?

11 A For some programs, yes. Not all programs.

12 Q For which programs do you receive regular  
13 reports?

14 A Apex program would be one of those. Our  
15 youth mental health clubhouses.

16 Programs that we have -- so we have a  
17 contract with Georgia State University for multiple  
18 things, but one of those is fidelity monitoring of  
19 our programs or just tracking metrics. For those  
20 programs we receive regular reports.

21 So Apex would be one of those programs.  
22 Clubhouse would be one of those programs.

23 Something called Intensive Customized Care  
24 Coordination would be another.

25 Q That's also known as IC3, correct?

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1 A That's correct.

2 Q Do you receive regularly reports tracking  
3 service utilization broadly by Tier 1 community  
4 service boards?

5 A I do not.

6 Q So do you have any other regular basis for  
7 tracking or assessing how much of each core service  
8 community service boards are providing to children  
9 and adolescents?

10 A We have an IT director that monitors and  
11 can produce various reports on an ad hoc basis that  
12 I see. I can't speak to what his day-to-day  
13 monitoring is.

14 For context, prior to my arrival in 2016,  
15 I don't know what year, but there was a redesign of  
16 the system. The CMOs came in place. The majority  
17 of children in Georgia, according to -- I guess some  
18 of the last statistics that I saw, about 45 percent  
19 of Georgia's youth are enrolled in a managed care  
20 organization, about 45 percent of Georgia's youth  
21 are enrolled in private insurance, and then DBHDD  
22 has primary responsibility for the remainder that  
23 are uninsured or have Medicaid.

24 Q What document are you referencing that  
25 provides those statistics?

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1 A Not a particular document. Just  
2 statistics that I have seen along the way.

3 Q And who was the IT director that you say  
4 is able to produce ad hoc reports about core service  
5 utilization?

6 A John Quesenberry.

7 Q It's Quesenberry; is that correct?

8 A Correct.

9 Q Does Mr. Quesenberry have a background in  
10 behavioral health services?

11 A I cannot speak to his background.

12 Q His title is IT specialist; is that  
13 correct?

14 A I don't know his exact title. I believe  
15 it has IT in it.

16 Q You're only receiving those reports from  
17 Mr. Quesenberry when you request them; is that  
18 correct?

19 A Correct, for core services.

20 Q And when is the last time you requested a  
21 report from Mr. Quesenberry about core service  
22 utilization?

23 A I do not recall.

24 The, the numbers are very small for  
25 uninsured children or those with SSI Medicaid in

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1 Georgia -- the numbers are very small for uninsured  
2 children of those with SSI Medicaid in Georgia.

3 And so the reason a Georgia State contract  
4 is valuable and important to us is because we can  
5 see utilization regardless of payor source.

6 We only have access to youth that would,  
7 in terms of utilization and payment, that would be  
8 uninsured or SSI Medicaid, but according to the  
9 statistics that are generally aware to me, many  
10 children fall outside of that.

11 And so having a neutral organization that  
12 can access multiple agencies and payor sources  
13 allows us to see across payor.

14 For example, Apex, I think in the regular  
15 reporting, typically cover lives -- so the children  
16 that are served under the program typically average  
17 between 80 and 90 percent are in managed care.

18 Q Which agency -- which state agency in  
19 Georgia is responsible for maintaining utilization  
20 data for children enrolled in Medicaid or managed  
21 care?

22 A I don't know the answer to that question.  
23 I do know that DCH -- the managed care organizations  
24 are the defender of DCH.

25 Q Do you ever request from DCH data that

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1 would show core service utilization across the  
2 State?

3 A Not directly, but through our office of  
4 Medicaid coordination we may make requests. Through  
5 Georgia State University we may make requests.

6 Q Do you receive regularly from Georgia  
7 State University to start reporting on core service  
8 utilization across payor sources?

9 A For specific programs?

10 Q For example, for Apex.

11 A For Apex, and Apex is -- Apex is more of a  
12 framework. It's a programmatic framework. It does  
13 not produce any new services that are not already  
14 available as a part of the core -- our core packet  
15 -- core service package.

16 For example, an Apex report will say X  
17 number of students receive individual counseling for  
18 this month. Individual counseling is a service  
19 available to core providers that is part of our core  
20 benefit package.

21 Q Let's stick with individual counseling as  
22 a concrete example. Are you tracking, not specific  
23 to Apex or any program, utilization of individual  
24 counseling by children regardless of payor source  
25 across the State?

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1           A       Only for specific programs. So Apex -- so  
2     the ones that we contract with Georgia State for,  
3     Apex, Clubhouse, IC3, we see that, that rich data.  
4     Outside of that, I do not see that type of  
5     utilization, unless there is a specific request, ad  
6     hoc request, and then it would be only those who are  
7     uninsured or receive services or SSI Medicaid and  
8     receive services.

9           Q       So when you make those specific ad hoc  
10    requests, you're not accessing data for Medicaid  
11    enrolled or CMO enrolled children?

12          A       No. So John, our IT folks, whoever pulls  
13    the utilization data, they don't have access to  
14    Medicaid data.

15          Q       Okay.

16          A       They have -- at least not CMO Medicaid  
17    data. They have access to SSI Medicaid. They have  
18    access to uninsured.

19                 So if I request that information, it is  
20    only a -- it's only a part of the picture. It's not  
21    the full picture.

22          Q       We're going to take a break in a few  
23    minutes. I think we're about overdue, but I just  
24    want to finish this line.

25                 Just for clarity, services like individual

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1 counseling are available through community service  
2 boards, core providers, outside of Apex, correct?

3 A Correct.

4 MR. HOLKINS: This is actually a good  
5 time. Let's take a ten-minute break.

6 So back on around 11:38.

7 Thank you.

8 THE WITNESS: Thank you.

9 THE VIDEOGRAPHER: We're off the record at  
10 11:29 a.m.

11 (A recess was taken.)

12 THE VIDEOGRAPHER: We're back on the  
13 record at 11:50 a.m.

14 BY MR. HOLKINS:

15 Q Welcome back, Mr. McKay. I wanted to just  
16 wrap up our discussion of this salary increase,  
17 which is Exhibit 3.

18 Could you turn to Page 5.

19 A I have it.

20 Q Do you see in the section labeled  
21 "Solicitations Since February 2016"?

22 A Yes.

23 Q Are these the budget increase requests  
24 that you've made -- that you had made at that time?

25 A No.

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1 Q What are the -- what are these  
2 solicitations?

3 A These are -- these follow budget  
4 increases, and I don't necessarily -- as I mentioned  
5 before, the increases could happen in the absence of  
6 a formal request.

7 Q So specifically, this is on Page 6, for  
8 the item labeled No. 6, Mobile Crisis, did you make  
9 a request in connection with this solicitation?

10 A No, I did not.

11 Q So what, what was your contribution? What  
12 did you do in connection with this mobile crisis  
13 solicitation?

14 A I was part of a, I guess, procurement  
15 team, with other directors as well.

16 My participation and interest were to  
17 represent children services.

18 (Pause.)

19 THE VIDEOGRAPHER: Off the record at 11:54  
20 a.m.

21 (Recess taken.)

22 THE VIDEOGRAPHER: We're back on the  
23 record at 12:00 p.m.

24 BY MR. HOLKINS:

25 Q Mr. McKay, just another couple of

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1 questions about this document.

2 First off, was your request for a salary  
3 increase in April 2020 granted?

4 A Not in April 2020.

5 Q Did you make a request after this one?

6 A I made reminders.

7 Q But it was the same request?

8 A It wasn't specific, but just a reminder  
9 about this document.

10 Q And, ultimately, was the request for a  
11 salary increase approved?

12 A I did receive an increase. I want to say  
13 -- in December of 2020.

14 Q And have you submitted any salary requests  
15 since then?

16 A I have not.

17 Q I want to show you another document.

18 (WHEREUPON, Plaintiff's Exhibit-6 was  
19 marked for identification.)

20 BY MR. HOLKINS:

21 Q You've just been handed what's been marked  
22 as Exhibit 6.

23 MS. COHEN: I'll note for the record this  
24 is GA01748346, produced by the State of Georgia  
25 to the United States.

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1 BY MR. HOLKINS:

2 Q Mr. McKay, please take a moment to review  
3 the document and let me know when you've finished.

4 A I'm finished.

5 Q So if you turn to -- well, first, the  
6 first page, the file name for this document is "Book  
7 of Business, OCYF, August 20."

8 Is that correct?

9 A Yes, that's correct.

10 Q Could you describe what this document is?

11 A This was an attempt to assess the  
12 commitment of my team, of my office and my team  
13 members, as it relates to attending various meetings  
14 and demands on their schedule and their time.

15 Q Did you draft this document?

16 A Yes, I did.

17 Q Did you receive input from the members on  
18 your team with respect to this document?

19 A Mostly confirmation of the accuracy of  
20 these meetings, and if something was missing and  
21 needed to be added.

22 Q So the document identifies a number of  
23 tasks or committees and then designates a lead staff  
24 person within your office for each of those  
25 activities. Is that accurate?

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1 A Yes.

2 Q And was this document accurate and  
3 complete as of the date it was submitted, which is  
4 8/24/2020?

5 A I cannot confirm that.

6 Q Are there any changes that you would make  
7 to this document to address inaccuracies?

8 A I don't understand the question.

9 Q Let me try again.

10 Are there any tasks or assignments  
11 described in this document that are not accurate?

12 A As of 8/20?

13 Q Correct, as of the date that it was  
14 submitted.

15 A I can't recall.

16 Q Okay. Have you drafted subsequent  
17 versions of this document?

18 A I'm not sure.

19 Q Has anyone in your staff -- excuse me.

20 Has anyone at OCYF submitted a version of  
21 this document since August 2020?

22 A I'm not sure.

23 Q What was the genesis of this document?

24 A To manage demands on my staff's time.  
25 Either to request additional staff to manage these

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1 multiple meetings and activities; or if that was not  
2 possible, to prioritize which we would continue to  
3 attend and reduce the burden on my team's time.

4 Q Did you have specific concerns about your  
5 staff's capacity when you drafted this document?

6 A I can't speak to my, my frame at the time.

7 Q To whom did you submit this document?

8 A This wasn't submitted to anybody that I  
9 recall. This was for my purposes.

10 Q So would it be fair to say it was an  
11 internal OCYF document that you were using to help  
12 organize your time and staff; is that correct?

13 A Yes.

14 Q Were any changes made to assignments in  
15 response to your drafting this document?

16 A I think that's fair to say.

17 Q So let me just reask the question.

18 Were any changes made to the assignments  
19 on this document in response to your drafting it?

20 A I think that's fair to say.

21 Q That there were changes made?

22 A Yes.

23 Q What specific changes were made?

24 A So to clarify, I'm not saying that there  
25 were definitely changes made to this document after

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1 this time. It's possible. I don't recall. But in  
2 terms of my team's work assignments, this would no  
3 longer be an accurate reflection.

4 My team is smaller. We have less capacity  
5 to do these things.

6 Q And is your team smaller as a result of  
7 the budget reductions we discussed earlier?

8 A That is one contributing factor, yes.

9 Q What are the other contributing factors?

10 A Natural turnover, people leaving for other  
11 opportunities.

12 Q I'd like to turn, if we could, to the  
13 third page of the document, and that's counting the  
14 cover page.

15 So toward the middle there is an entry for  
16 "GNETS Leadership Meeting (DOE)."

17 Do you see that?

18 A Yes.

19 Q And you're designated as lead for that  
20 task, correct?

21 A Yes.

22 Q Could you describe what your work on the  
23 GNETS Leadership Meeting entails?

24 A There is a statewide GNETS director at the  
25 DOE, and I would have regular meetings with that

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1 individual to provide general updates and answer  
2 general questions as it relates to programs and  
3 services supported with funding from my office.

4 Q How long have you been doing that?

5 A I don't remember the exact time, but for a  
6 while. But I want to say the last meeting with that  
7 individual occurred in late 2020.

8 Q So you've not had a meeting -- I just want  
9 to make sure I understand.

10 You've not met with the statewide GNETS  
11 program leader since late 2020; is that correct?

12 A That's correct.

13 Q Do you know who is currently in that role?

14 A I know who was last in that role. I don't  
15 know if she's currently in that role.

16 Q What's your understanding of who was last  
17 in that role?

18 A Vickie Cleveland.

19 Q And that was the individual you were  
20 coordinating with back in late 2020?

21 A Meeting with, correct.

22 Q And did you also meet with Ms. Cleveland's  
23 predecessors in that role?

24 A Yes.

25 Q Which ones?

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1           A       I don't remember her name per se. It was  
2 a female. She grew ill and there was a period of  
3 time that elapsed, and then the new person was  
4 Vickie, and we continued to meet.

5                   I think her name was Nakeba Rahming,  
6 maybe.

7           Q       Nakeba Rohming or Rahming?

8           A       Yes.

9           Q       So what were the subjects you discussed in  
10 these meetings with Vickie Cleveland?

11          A       They were programmatic updates mostly.  
12 She would ask questions about the Georgia Apex  
13 program.

14          Q       What kind of questions about Apex?

15          A       About funding reductions, how the program  
16 was impacted, funding increases, expansion plans.

17                   She just wanted a general understanding of  
18 the tiers of the program, how it worked, the schools  
19 that it was in.

20          Q       I think you mentioned also asking  
21 questions of the GNETS directors during these  
22 meetings; is that right?

23          A       That's fair. General updates.

24          Q       What kind of information would you be  
25 seeking from the GNETS program leader in these

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1 meetings?

2 A It would be -- there was often asks for  
3 training of their I guess network directors and what  
4 sorts of training I think would be helpful to that  
5 group. And so I would ask questions about clarity  
6 of needs and then I would make recommendations.

7 Q You mentioned you have been meeting with  
8 the GNETS program leader since late 2020, correct?

9 A Correct.

10 Q Are you aware of anyone else in your  
11 office, including Monica Johnson, is meeting with  
12 the statewide GNETS program leader?

13 MR. PICO PRATS: It asks for speculation.  
14 You can answer.

15 A I'm not aware of anyone else meeting with  
16 GNETS.

17 Q Do you participate in any regular meetings  
18 --

19 MR. HOLKINS: Let me reframe.

20 BY MR. HOLKINS:

21 Q Back when you were meeting with the GNETS  
22 program leader, did you participate in any other  
23 meetings regarding GNETS on a regular basis?

24 A No, not on a regular basis.

25 Q And is that true at present?

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1 A Yes.

2 Q Are you aware of whether Monica Johnson  
3 participates in any regular meeting --

4 MR. PICO PRATS: Objection.

5 Q -- regarding GNETS?

6 MR. PICO PRATS: You can answer.

7 A I'm not aware.

8 Q Scanning through this document, are there  
9 any other updates that you have regarding the tasks  
10 or activities for which you've been designated to  
11 reflect changes made since this document was  
12 drafted?

13 A So generally speaking, yes, this list  
14 would be shorter than currently -- than what's  
15 currently reflected here.

16 Q Could you identify the specific items for  
17 which you are no longer lead?

18 A Going through it one by one? Because it  
19 would be many of these.

20 Q Yes, I think it would be helpful if we  
21 could go through the full list.

22 A Okay. I would say the Deaf Mental Health  
23 Team Meeting. The lead for that now would be  
24 Kristi.

25 Q Kristi who? I'm sorry?

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1 A Kristi Burke.

2 The ASD Steering Committee. Toni -- would  
3 now be Toni Simms would be the lead.

4 The ASD Tracking Unmet Need doesn't exist  
5 anymore.

6 We have not participated in ASO Provider  
7 Enrollment in quite a while. No one on my team.

8 ASO Quality Meeting, Diana is not the  
9 supporting team member, and I attend that meeting.  
10 It's a monthly meeting, is the frequency, and I  
11 attend as my schedule allows.

12 The Behavioral Coordinating Council,  
13 previously I was a required participant at that  
14 meeting. I am no longer required. I attend as my  
15 schedule allows.

16 The BH/IDD Steering Committee and all of  
17 the subgroups no longer exist.

18 We no longer have a Budget Projection  
19 Meeting.

20 CANS meeting, which the CANS is a meeting  
21 that I wanted to establish. Never got it off the  
22 ground.

23 Child Abuse & Neglect Prevention Plan  
24 meetings no longer exist.

25 The Child & Adolescent Coalition Meetings

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1 (Voices), I attend as my schedule allows.

2 The Child & Adolescent Psychiatric  
3 Fellowship is ad hoc, meetings as needed.

4 Child Welfare Training Collaborative, we  
5 don't participate. I don't think it exists anymore.

6 I don't know about the Children's Justice  
7 Act Task Force.

8 CHINS Statewide Collaborative Alternative  
9 hasn't met in a very long time, and I was unable to  
10 attend the last meeting. I think there's been one  
11 meeting in a year and I had a conflict and was  
12 unable to attend that meeting.

13 The citiesRISE doesn't exist anymore.

14 Community Innovation doesn't exist  
15 anymore.

16 The CPS-P&Y Professional Development  
17 Academy doesn't exist. Never got it off the ground.

18 Q For the second page, you can just focus on  
19 the task for which you were designated lead.

20 A Just designated lead.

21 I do not participate in Deaf Services  
22 Advisory Council.

23 I have not had a DFCS leadership meeting,  
24 standing meeting, in over a year due to turnover  
25 within the agency.

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1 I don't participate in the Families First  
2 - Candidacy Workgroup. That work was completed.

3 I have not participated in GNETS  
4 Leadership Meeting since late 2020.

5 I don't participate in the IDD Safety Net  
6 meeting.

7 I participate in IDT as my schedule  
8 permits.

9 I participate in the Infant and Toddler  
10 Task Force as my schedule permits.

11 The IFI Provider Relations, we never got  
12 that off the ground.

13 Internship Program, we never got that off  
14 the ground.

15 Joint BH/IDD Quarterly Meetings doesn't  
16 exist.

17 The Maternal Child Health Advisory  
18 Council, I participate when my schedule allows.

19 For the NASMPD meetings, I participate  
20 when my schedule allows.

21 The Payment Reform Committee no longer  
22 exists.

23 Moving to the third page.

24 The Transition Age Youth meeting never got  
25 off the ground.

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1 And the University System of Georgia  
2 Mental Health Task Force completed its work.

3 Q Thank you very much. I appreciate that.

4 I do have a couple of questions for you  
5 about some of the things which I believe you are  
6 still doing.

7 On the second page, one of the entries at  
8 the top is "DCH - CYF Leadership Meeting," and you  
9 are designated lead.

10 Do you see that?

11 A DCH --

12 Q At the top of the document, Page 2.

13 A The third page. DCH- CYF Leadership  
14 Meeting?

15 Q Uh-hum.

16 A Yes. I am not the -- I kind of -- I  
17 co-lead that meeting with Wendy Tiegreen, who is the  
18 director of the Office of Medicaid Coordination and  
19 Health System Innovation.

20 I typically defer to her because this work  
21 is more in her lane in terms of being the liaison  
22 for Medicaid.

23 Q And this individual, I think it's Wendy --  
24 what was her last name?

25 A Tiegreen.

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1 Q -- Tiegreen.

2 She is at DBHDD as well?

3 A Yes.

4 Q What's discussed at these DCH - CYF  
5 leadership meetings?

6 A It's more coordination between the  
7 agencies. Barriers or facilitators to the work  
8 generally.

9 Sometimes we get into specific case  
10 staffing.

11 Q Could you identify some of the barriers to  
12 the work that have been discussed at these meetings?

13 A It would be for -- more recently. So this  
14 is a standing meeting.

15 It would be things like impacts of the  
16 pandemic on the workforce, and a barrier would be  
17 like our crisis stabilization units taking beds  
18 offline because staff are out sick or they don't  
19 have enough staff.

20 It would be things like that.

21 Q Have you ever discussed concerns about  
22 specific service utilization at these meetings?

23 A I don't understand the question.

24 Q So let's take a concrete example.

25 IC3, if there were concerns about

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1 availability or utilization of that service, is that  
2 something that you would discuss at this DCH-CYF  
3 leadership meeting?

4 A That is something we may discuss.

5 Q Have you ever discussed IC3 at these  
6 meetings?

7 A Yes. We would discuss IC3.

8 MR. HOLKINS: I think we need to go off a  
9 second to fix the setup.

10 THE VIDEOGRAPHER: Off the record at 12:26  
11 p.m.

12 (A recess was taken.)

13 THE VIDEOGRAPHER: Back on the record at  
14 12:29 p.m.

15 BY MR. HOLKINS:

16 Q Mr. McKay, you were talking about IC3 in  
17 the context of these meetings that you have with  
18 DCH. What specific questions about IC3 have come up  
19 at these meetings?

20 A I can't speak to specifics.

21 Q Is it because you don't recall?

22 A I don't recall. It would be -- it may be  
23 a review of latest report or it may be asking  
24 questions about the particular providers.

25 It was just in the course of standing

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1 meetings and regular day-to-day kind of programmatic  
2 discussions.

3 Q I think you said it could include review  
4 of latest report; is that right?

5 A Correct.

6 Q What is that report?

7 A Through Georgia State we request report in  
8 to look at utilization, quarterly reports, annual  
9 reports.

10 What would be included in that is word  
11 services, where there's density of services, and  
12 where there may be gaps in services, particular  
13 referral sources, length of stays within a  
14 particular program. Things like that.

15 Q And so you get a report specific to IC3  
16 from Georgia State University?

17 A Correct.

18 Q Are there other specific services for  
19 which you receive those regular reports from Georgia  
20 State University?

21 A Apex and youth mental health clubhouse.

22 Q Do you receive regular reporting from  
23 Georgia State University with respect to the GNETS  
24 program?

25 A No.

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1 Q So you're not receiving regular data with  
2 respect to, for instance, length of stay for  
3 children who are enrolled in GNETS?

4 A No.

5 Q What about data with respect to behavioral  
6 health service utilization for children who are  
7 enrolled in GNETS, do you receive that?

8 A No.

9 Q I guess more broadly, do you receive any  
10 regular data or reporting with respect to students  
11 enrolled in GNETS?

12 A No.

13 Q Do you know if anyone on your staff at  
14 OCYF receives any regular data reporting with  
15 respect to children enrolled in GNETS?

16 A I do not.

17 Q You don't know?

18 A I do not know.

19 Q We probably should have covered this  
20 earlier but let's go back and talk about who you  
21 supervise.

22 Could you identify the individuals who are  
23 on your staff at OCYF?

24 A So there are -- that I supervise directly  
25 or --

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1 Q Let's start with that, the individuals  
2 that you supervise directly.

3 A Dr. Stephanie -- so the --

4 Q And if you could also provide their roles,  
5 that would be very helpful.

6 A Okay. The first group I would identify  
7 would be my clinical team. Director -- the clinical  
8 director is Dr. Stephanie Pearson.

9 And then there are two others in that  
10 grouping that I have dotted lines to. They report  
11 to Dr. Pearson but because of the nature of our  
12 work, I may have regular interaction with them. And  
13 that would be Toni Simms, who is the clinical  
14 manager, and Diana Aspinwall, who is the clinical CY  
15 specialist, statewide specialist.

16 The next group would be System of Care. I  
17 directly supervise Matthew Clay. We have a federal  
18 grant from SAMHSA called AIME. It's a System of  
19 Care expansion grant. Matthew leads that work.

20 The next group would be Workforce  
21 Development. Dr. Adell Flowers is the Workforce  
22 Development program manager.

23 The last grouping would be community-based  
24 programs. Layla Fitzgerald would be the program  
25 director. She also serves as a liaison between my

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1 office and DOE.

2 And now, because of the departure of  
3 Tricia Mills, I am assuming management of Dr. Kristi  
4 Burke, who is -- I think her title is program  
5 coordinator.

6 Q Thank you.

7 What are your responsibilities as  
8 supervisor with respect to the individuals who  
9 report to you?

10 A To provide coaching; to lead meetings or  
11 support in meetings led by my team members; to give  
12 input, feedback; to make decisions as the -- I guess  
13 as the director of the office, final decisions  
14 sometimes that are required; to provide HR-related  
15 functions in terms of salary reviews.

16 Broadly speaking, those would be the  
17 categories.

18 Q As part of the salary reviews, are you  
19 making assessments of performance for these  
20 individuals?

21 A It is -- it's more along the lines of --  
22 informally, yes. But it's more along the lines of  
23 increased workload or equity compared to other  
24 similar staff across the agency.

25 Q Have any of these individuals were

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1 regularly receiving data about the GNETS program,  
2 would you expect to know as their supervisor?

3 A Yes.

4 Q Lets go back to talking about this meeting  
5 with DCH leadership. Who participates in that  
6 meeting from DCH?

7 A A number of people, all of whom I don't  
8 know.

9 But the -- I guess the standing person is  
10 Catherine Ivy, who is typically available in the  
11 meeting.

12 Q And do you -- excuse me.

13 Do you interact with Catherine Ivy outside  
14 of the context of this meeting?

15 A Sometimes, but most of my interactions  
16 with DCH flow directly through the Office of  
17 Medicaid Coordination. If there is a need for me to  
18 reach out to them directly as it relates to, say, a  
19 specific child, I would -- I may be copied on the  
20 email. Sometimes I may initiate the email, but  
21 Medicaid Coordination would always be copied if I  
22 didn't go through them.

23 Q What kind of issues about a specific child  
24 would you be reaching out to DCH about?

25 A If there was a question about their

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1 Medicaid status.

2 Sometimes children -- oftentimes children  
3 churn between different payors. So because of life  
4 circumstances, in a particular year they may be  
5 under private insurance, and then a part of  
6 Medicaid, and then uninsured.

7 We don't have access to all of that data  
8 or payor source. So we would need to coordinate  
9 with DCH to determine if that's a Medicaid managed  
10 care covered life.

11 Q So you have no way of knowing whether a  
12 specific child is a Medicaid beneficiary unless you  
13 asked DCH?

14 A Correct.

15 Q Do you have any other coordination on a  
16 regular basis with DCH, beyond what you've just  
17 described?

18 A There are a number of child serving  
19 meetings, probably many reflected on Exhibit 6, that  
20 I participate in that includes DCH.

21 Q I think we'll talk about that a little bit  
22 later.

23 I want to shift to another child serving  
24 agency within the State of Georgia, which is Georgia  
25 Department of Education.

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1                   What coordination, as part of your  
2                   official duties, do you do with the Georgia  
3                   Department of Education?

4           A       There's a standing Apex leadership meeting  
5           that I participate in, if my schedule allows. In  
6           one of those meetings per month DCH participates.

7                   The other thing that happened as of  
8           September of 2021 is that Layla Fitzgerald became  
9           officially as in between my office and DOE.

10          Q       I'd like to talk more about that, but  
11          first I want to go back and just clarify. I think  
12          the record says that DCH participates in the  
13          standing Apex leadership meeting. Did you mean to  
14          refer to Georgia Department of Education?

15          A       Yes.

16          Q       And outside of that meeting, what are the  
17          standing meetings in which you coordinate directly  
18          with staff at the Georgia Department of Education?

19          A       That's it. And I don't coordinate that  
20          meeting.

21                   As part of the Apex work, our contract  
22          vendor with Georgia State convenes that meeting, and  
23          I participate as my schedule permits.

24          Q       Are you responsible for providing any  
25          trainings to your staff at OCYF?

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1 A No.

2 Q Are you required to receive annual  
3 training in your role?

4 A No. So correction: Yes. Not specific to  
5 my role, but yes.

6 There are statewide required quarterly  
7 trainings.

8 Q Do you receive any required training with  
9 respect to children's behavioral health services on  
10 an annual basis?

11 A Yes.

12 Q Could you describe that training?

13 A We host training. The Division puts on an  
14 annual behavioral health symposium. Myself and my  
15 team make sure there's child and adolescent content  
16 for that.

17 We put on an annual, what's called, a  
18 System of Care Academy, focused specifically on  
19 children's behavioral health.

20 Q You've used the term a couple times today  
21 and we'll talk about it later. I'm hoping you can  
22 describe what System of Care means.

23 A It's not easily defined. It's many  
24 things.

25 System of Care is an official framework,

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1 but it's also particular programming, and at the  
2 essence of System of Care is coordination of  
3 services in many domains, whether it is with  
4 recognizing family voice, whether it's coordinating  
5 with multiple child serving agencies.

6 Q I'm going to quickly show you another  
7 document.

8 (WHEREUPON, Plaintiff's Exhibit-7 was  
9 marked for identification.)

10 BY MR. HOLKINS:

11 Q So you've just been shown what is marked  
12 Exhibit 7.

13 MR. HOLKINS: I note for the record this  
14 is GA00250529. It's titled, "OCYF Staff Plan,  
15 Draft, 5/12/20."

16 BY MR. HOLKINS:

17 Q Mr. McKay, Please take a minute to read  
18 the document and let me know when you've finished.

19 (Witness reviews exhibit.)

20 A I've reviewed the document.

21 Q Thank you.

22 Mr. McKay, did you draft this document?

23 A I believe so.

24 Q For what purpose?

25 A This was around the time that the agency

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1 was considering reductions, including reductions in  
2 staff. And so I think I produced this to have a  
3 better understanding who was working on what at that  
4 particular time. And if any of those staff were  
5 lost, what the impact would be.

6 Q First off, let me ask, were any of these  
7 staff lost as a result of the reduction?

8 A Yes.

9 Q Which ones?

10 A Well, there were many plans -- there are  
11 many different versions of this. The Parent/Youth  
12 Peer Support section is no longer -- Dana McCrary no  
13 longer reports to me. Or Ana Martinez. Dave -- but  
14 both still remain employed with the agency.

15 Dave Quashie was lost --

16 THE COURT REPORTER: I can't hear you, the  
17 names.

18 A Dave Quashie was lost as part of the  
19 reduction.

20 Dana McCrary and Ana Martinez were lost to  
21 the office but moved to a different office.

22 Jessica Soto is no longer a part of the  
23 office.

24 Ana Speed is no longer a part of the  
25 office.

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1                   Excuse me. Anita Speed is no longer a  
2 part of the office.

3           Q       Thank you.

4                   To whom was this document submitted? Or  
5 was it just internal?

6           A       I don't know if I submitted this to  
7 anyone.

8           Q       Have there been -- as you mentioned, there  
9 have been many versions of this document. Let me  
10 just ask whether you've developed staff plans in the  
11 last year?

12          A       I can't say if I have or not.

13          Q       Is this something that you regularly  
14 produce on an annual basis, for instance?

15          A       No.

16          Q       You can put that aside.

17                   I'd like to talk with you a bit about the  
18 behavioral health services that are available  
19 through Georgia's publicly funded system. We should  
20 be able to get through a few of these documents in  
21 the next maybe 20 minutes or so and, and then we'll  
22 take a break for lunch, if that's all right.

23          A       Okay.

24                   (WHEREUPON, Plaintiff's Exhibit-8 was  
25 marked for identification.)

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's  
3 been marked Exhibit 8. Please take a moment to  
4 review the document and let me know when you've  
5 finished.

6 A Okay.

7 (Witness reviews exhibit.)

8 A I've reviewed the document.

9 Q Thank you.

10 MR. HOLKINS: I'll note for the record  
11 this is a letter dated February 12, 2021, from  
12 Alexa Ross to counsel for the United States in  
13 this matter, and it provides the State's  
14 supplemental responses to certain of the United  
15 States interrogatories.

16 BY MR. HOLKINS:

17 Q And I want to direct your attention in  
18 particular, Mr. McKay, to the State's supplemental  
19 response to Interrogatory No. 17, which appears on  
20 Pages 3 and 4 of this document.

21 First, let me ask you whether you had any  
22 role or any involvement in compiling, drafting or  
23 reviewing the State's supplemental response to  
24 Interrogatory No. 17?

25 A I don't know.

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1 Q Have you seen this document before?

2 A I don't know.

3 Q Are you generally familiar with the  
4 services identified in the State's supplemental  
5 response to Interrogatory No. 17 on Pages --

6 A Yes.

7 Q -- 2 and 3?

8 A Yes, I am.

9 Q And how do you --

10 MR. HOLKINS: Let me reask that.

11 Q What's the basis for that familiarity?

12 A These are services listed in the  
13 behavioral health provider manual for DBHDD.

14 Q It is accurate to say that the behavioral  
15 health provider manual defines and sets requirements  
16 with respect to each of these services?

17 A No, not exactly.

18 Q Could you explain?

19 A The services -- the provider manual  
20 contains services that are a part of the DBHDD core  
21 service package. Who determines those services, I  
22 don't know.

23 And then the provider manual specifies the  
24 requirements for those services. Like admission  
25 criteria, continuing stay, those sorts of things.

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1 Q Thank you for that clarification.

2 And so providers of the services described  
3 in DBHDD's provider manual must comply with the  
4 requirements set forth in that manual, correct?

5 A Correct.

6 Q How does DBHDD assess whether the services  
7 described in its provider manual are being  
8 implemented consistent with those standards?

9 A I don't know. It's a different office.

10 Q Which office would that be?

11 A If we can refer to one of the previous  
12 exhibits.

13 Q Please feel free to look back at Exhibit  
14 No. 4, which is the org chart for DBHDD.

15 A So if you go to Page 15, and again with  
16 the caveat that there's been some redesign of the  
17 department, each of the offices or capacities  
18 represented here would have a role in assessing  
19 provider performance.

20 And then if you go to Page 16, I would say  
21 the one, two, three, four, five, reading from left  
22 to right, the first five boxes would have some  
23 responsibilities for assisting provider performance.

24 Q That's on Page 16, correct?

25 A Correct.

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1 Q Are you familiar with how the individuals  
2 in those offices go about assessing provider  
3 performance in connection with the provider manual?

4 A I am not. What I do know is that we have  
5 KPIs, metrics, standard metrics, that they assess  
6 according to some frequency.

7 Key performance indicators is KPI.

8 Q Thank you.

9 Does DBHDD have its own fidelity standards  
10 with respect to services in its provider manual?

11 A I don't know the answer to that.

12 Q Are you familiar with the term  
13 "evidence-based practice"?

14 A Yes.

15 Q What is an evidence-based practice?

16 A It is a practice that's been vetted by and  
17 approved by, scientifically, by the research  
18 community.

19 Q Is it important in your view that  
20 Georgia's behavioral health service providers use  
21 evidence-based services?

22 MR. PICO PRATS: Objection.

23 You can answer.

24 A Yes.

25 Q Why?

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1           A       Because they have been vetted and found to  
2 be -- they're to be benefits for them. There are  
3 hundreds of EBPs, and EBPs are not consistent across  
4 industries. So behavioral evidence-based practices  
5 may not be the same as educational evidence-based  
6 practices. But it's a value to having something to  
7 promote benefits of a particular practice and to  
8 have that tested and vetted and verified.

9           Q       And do you undertake any efforts in your  
10 official role to promote implementation of  
11 evidence-based services in the State of Georgia?

12           A       We, as a part of our training offerings,  
13 we select certain evidence-based practices that we  
14 make available as part of, say, the annual System of  
15 Care Academy.

16                   My office, over the last year, launched a  
17 Clinical Development Academy that includes offerings  
18 of some EBPs.

19                   Evidence-based practices are for fidelity  
20 to the model or for behavioral health practitioners  
21 that require annual educational credits. It may be  
22 unobtainable to offer an EV-based practice or to  
23 receive training in an evidence-base without a  
24 particular offering that is sponsored by -- through  
25 an educational opportunity like my office offers.

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1 Q Let me just try to understand your last  
2 statement.

3 So you're saying that for some providers,  
4 unless they have specific educational opportunities,  
5 they're not going to be able to provide  
6 evidence-based services -- educational opportunities  
7 like the ones provided by your office?

8 A No, I'm not saying that.

9 Q Could you clarify? I'm sorry.

10 A It would be more difficult.

11 For example, as attorneys you're required  
12 to have continued legal education, but attorney  
13 salaries are typically higher than your average  
14 position -- your average profession, and so you may  
15 be able to pay for those out-of-pocket or you may go  
16 to bar-sponsored things where you don't have to pay.

17 Behavioral health professionals are  
18 typically some of the lowest paid individuals in the  
19 industry, and education -- but they are still  
20 required to have annual or bi-annual educational  
21 credits, which in an evidence-based practice that  
22 may be unobtainable based upon their annual  
23 salaries.

24 So as part of our educational offerings,  
25 like the annual System of Care Academy, we'll make

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1 some of those things available and we will cover the  
2 cost of those educational credits.

3 Q Do you think that what DBHDD is currently  
4 offering is sufficient to meet the needs for  
5 training on evidence-based services for behavioral  
6 health service providers?

7 MR. PICO PRATS: Objection.

8 A I can't speak to that.

9 Q Why not?

10 A That's a very broad question, and it would  
11 require speculation.

12 I do know that individuals that attend our  
13 trainings are not just -- there may be individuals  
14 employed with the Department of Family and Children  
15 Services or the Department of Community Health, or  
16 even the Department of Education. What we're  
17 offering, if it's sufficient to support an entire  
18 state beyond -- just for our agency or even beyond  
19 our agency, I can't say.

20 Q Do you know whether any of the services  
21 identified in Exhibit 8, in the State supplemental  
22 response, Interrogatory 17, are evidence-based  
23 practices?

24 A I do not know.

25 Q Are you familiar with the term "functional

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1 behavioral assessment"?

2 A No.

3 I want to correct the last statement.

4 Q Please go ahead.

5 A I believe that Parent Peer Support and  
6 Youth Peer Support has obtained EBP status.

7 Q Any other additions?

8 A No.

9 Q Do you know if IC3 is an evidence-based  
10 service?

11 A I don't know per se. I do know that it  
12 has recently been rated as a promising practice on  
13 the Title IV Clearinghouse as of this month.

14 Q Could you describe what a promising  
15 practice is as distinct from an evidence-based  
16 practice?

17 A I don't know. I just know that for the  
18 federal reform under the Family First Act for --  
19 there are various -- like I said before, there are  
20 hundreds of evidence-based practices. Before  
21 eligibility for support, Federal Title IV funding  
22 support, those practices have to be submitted to the  
23 clearinghouse for review. And those that are  
24 approved -- and there are three levels of approval:  
25 I think supported, well supported, and promising.

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1 Any of those that are reviewed and rated  
2 and added to the clearinghouse are available for  
3 Title IV-E funding under the Federal Family First  
4 Prevention Services Act.

5 Q Okay. Thank you.

6 I just want to make sure the record was  
7 clear. Were you familiar with the term "functional  
8 behavioral assessment"?

9 A No.

10 Q Do you know whether --

11 MR. HOLKINS: Let me ask that in a  
12 different way.

13 Q Are the services identified in the State's  
14 supplemental response, Interrogatory No. 17, all  
15 available in general education settings in Georgia?

16 MR. PICO PRATS: Objection to form.

17 You can answer.

18 A I don't know.

19 Q Do you know whether these services are  
20 available to children enrolled in GNETS?

21 A I don't know.

22 Q And just to make this more specific...

23 To make this specific, do you know whether  
24 IC3, or Intensive Customized Care Coordination, is  
25 available in general education settings in Georgia?

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1 A I'm not clear on the question.

2 Q What I'm trying to assess is whether or  
3 not these services are provided in general education  
4 settings in Georgia, whether students enrolled in  
5 the schools are able to receive the service at that  
6 setting.

7 So I'll ask the question again: Is IC3  
8 available to students in the general education  
9 setting in Georgia?

10 A IC3 is a community-based service, it's a  
11 fidelity model, and so meetings could take place  
12 inside of schools. Somewhere like a McDonald's in  
13 the community, or in the home. It's community  
14 based.

15 So when you say inside a school setting,  
16 it could happen in a school setting but it's not  
17 limited to a school setting.

18 Q Thank you for that distinction.

19 But it can be provided in a school  
20 setting, correct?

21 A Correct.

22 Q Do you know whether Intensive Customized  
23 Care Coordination can be provided in a GNETS  
24 facility?

25 A It's speculative but I don't see why not.

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1 Q Do you know whether in fact IC3 is  
2 provided in GNET settings?

3 A I do not know.

4 Q What about individualized counseling, do  
5 you know whether that service is provided in GNET  
6 settings?

7 A I do not know.

8 Q Is that true for this entire list?

9 A Yes, that's true for this entire list.  
10 But to provide context, there are a number of  
11 factors that go into play in these services.

12 So these are services that are available  
13 -- or funded services that are available through  
14 some mechanism, public mechanism, whether it's  
15 Medicaid, managed care Medicaid, traditional  
16 Medicaid, or uninsured.

17 Whether it's available is depending upon  
18 available workforce, school personnel, referrals.  
19 There are a number of things. But these are  
20 services that are active -- that have active funding  
21 and can be made available if those factors are in  
22 place to facilitate access to these services.

23 Q Are all the services identified in the  
24 State's supplemental response, Interrogatory No. 17,  
25 core services?

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1 A Yes.

2 Q So these are services that community  
3 service boards, the safety net providers you  
4 described earlier, are required to provide, correct?

5 A I'm hesitant to say yes because the  
6 requirement, that they're required to provide it.  
7 It's, it's available because it's part of the core  
8 benefit package.

9 But individualized needs will determine  
10 what is -- individuals' needs will be based upon  
11 what is included in their treatment plan,  
12 recommendation.

13 Q Right. I'm just trying to understand  
14 what's provided, though, by community service  
15 boards.

16 Is it accurate that just because something  
17 is a core service doesn't mean it's going to be  
18 provided by a community service board? Is that  
19 true?

20 A In a way, but, again, services are  
21 individualized. Every -- what we mean by  
22 individualized is when an individual -- when a child  
23 is assessed, that assessment will yield certain  
24 recommendations to address whatever brought that  
25 child to that professional's attention, and that

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1 assessment may recommend all of these services or it  
2 may recommend five of these services, but it's all  
3 individualized and determined by that behavioral  
4 health professional or team.

5 Q What I'm trying to understand, though, is  
6 whether providers have capacity, have staff, to  
7 provide all core services?

8 MR. PICO PRATS: Objection; speculation.

9 MR. HOLKINS: I'm sorry?

10 MR. PICO PRATS: I'm sorry, I objected to  
11 speculation, but you haven't finished maybe.

12 MR. HOLKINS: So let me try that again.

13 BY MR. HOLKINS:

14 Q Do you know whether providers, community  
15 service boards, the safety net providers, have  
16 capacity to provide all of the core services across  
17 the State?

18 A I do not know.

19 Q Do you as part of your duties at OCYF  
20 undertake any assessments regularly of provider  
21 capacity to deliver DBHDD's core services?

22 A No. Not, not core services.

23 And again just for context and clarity to  
24 your capacity question, a number of factors go into  
25 place. And so it changes from week-to-week,

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1 especially with the pandemic.

2 And so if, for example, an agency serving  
3 a rural community will be considered fully staffed  
4 at 10 FTEs, but because of the pandemic they may go  
5 a month without, you know, with one or two, then --  
6 I mean it's a rolling -- it's a rolling and kind of  
7 case-by-case thing.

8 Q We're going to take a break in a second,  
9 but I just want to quickly show you another  
10 document.

11 MR. HOLKINS: We only have one copy of  
12 this one. I apologize. But you can take a  
13 look separately, if you need to.

14 (WHEREUPON, Plaintiff's Exhibit-9 was  
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q Mr. McKay, you've just been handed what's  
18 marked as Exhibit 9.

19 MR. HOLKINS: I'll note for the record  
20 this document was not produced to us by the  
21 State but rather obtained through DBHDD's  
22 public websites and it is titled, "Provider  
23 Manual For Community Behavioral Health  
24 Providers, For the Department of Behavioral  
25 Health & Development and Disabilities," for

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1 Fiscal Year 2022, Quarter One, and the  
2 effective date is July 1, 2021 through  
3 September 30, 2021.

4 BY MR. HOLKINS:

5 Q Mr. McKay, is this the hard version of the  
6 provider manual we've been talking about?

7 A Yes.

8 Q So this is, at least for the effective  
9 dates, the document that defines the service  
10 requirements for the services identified in the  
11 State's supplemental responses, Interrogatory 17,  
12 correct?

13 A I'm unsure of the answer to that. But the  
14 services listed in No. 17 of the interrogatory  
15 should be reflected in this manual. Most of them.  
16 If not all of them.

17 Q I'll just ask you real quick, if you could  
18 scan the list from the State's supplemental  
19 response, Interrogatory 17, and identify any  
20 services that you think may not be defined in the  
21 provider manual?

22 A I would need to reconcile this against  
23 this, because this changes quarterly. And this, a  
24 couple, I guess, editions back.

25 MR. HOLKINS: So I'll note that this was

1 the most recent version of the provider manual  
2 that you were able to obtain from the State's  
3 public website. I did see another version that  
4 was effective as of January this year, but the  
5 link to that document is not live.

6 So we would request from counsel  
7 production of the current provider manual.

8 And also on a rolling basis any updates do  
9 that manual.

10 A The first couple of pages of this document  
11 is a listing of the services, similar to this.

12 Q Are you referring to, looks like, Page 3  
13 of the document, which describes Child and  
14 Adolescent --

15 A Correct.

16 Q -- Non-Intensive Outpatient Services and  
17 Specialty Services; is that right?

18 A Correct.

19 Q So for the services that or on this page,  
20 Page 3 of Exhibit 9, and also in the State's  
21 supplemental response to Interrogatory 17, this  
22 document for the effective dates provides DBHDD's  
23 standards and requirements for the service; is that  
24 not true?

25 A Mostly accurate.

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1 Q What part wasn't accurate?

2 A Now, as I mentioned, there are -- have  
3 been occasions where there are services that are  
4 offered that have not yet made it into the provider  
5 manual.

6 Q Right.

7 A And that may be a case of a pilot or --  
8 like in the case of Apex, Apex started as a pilot.  
9 It was only going to be a one-year program, and then  
10 we converted it to an annualized program. And after  
11 a couple of years of offering the program felt the  
12 need to add it to the provider manual.

13 I don't know if there are other instances  
14 of that. So there may be a service on here that's  
15 being offered that may not be reflected here.

16 Q Right. I appreciate that.

17 But for the services that are on both of  
18 these lists, for instance, Crisis Intervention is in  
19 State's supplemental response, Interrogatory 17.  
20 It's also on Page 3 of this version of the program  
21 manual. Do you see that?

22 A Correct.

23 Q So for that service, this manual describes  
24 what the requirements are?

25 A Correct.

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1 Q And that's true for the other services  
2 that are on both lists?

3 A Correct.

4 Q Thank you.

5 MR. HOLKINS: We're due for lunch, so  
6 let's take a break. We're off.

7 THE VIDEOGRAPHER: Off the record at 1:16  
8 p.m.

9 (A luncheon recess was taken.)

10 THE VIDEOGRAPHER: We're back on the  
11 record at 2:04 p.m.

12 BY MR. HOLKINS:

13 Q Welcome back, Mr. McKay.

14 Before we move on, I just want to circle  
15 back to one question from the morning.

16 You had testified earlier that you meet I  
17 think on a quarterly basis with staff, leadership  
18 staff, from DCH, correct?

19 A No. It's monthly.

20 Q Monthly. Thank you.

21 During those meetings, do you ever discuss  
22 strategies to expand the State's use of available  
23 Medicaid funds to support behavioral health services  
24 in Georgia?

25 A Possibly.

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1 Q Could you elaborate?

2 A In the, in the course of discussions for  
3 like, say, school-based behavioral health, if we  
4 have heard in the community from community providers  
5 that they're having trouble with authorizations  
6 being -- services being authorized for one of their  
7 covered lives, if it was managed care covered lives,  
8 or even the length of the authorization and it was a  
9 trend, we would mention something like that in the  
10 meeting, and there would be some discussion, and  
11 there may be some follow-up by DCH and later  
12 reporting on what the follow-up -- what the outcomes  
13 of the follow-up.

14 Q Is that something that comes up just on a  
15 case-by-case basis with providers, or are you doing  
16 any kind of systemwide analysis of challenges around  
17 Medicaid authorizations?

18 A We don't do a systemwide analysis. It's  
19 more anecdotal. You know, we don't have the  
20 capacity to analyze that. We have the data that we  
21 get through the Center of Excellence, so through  
22 Georgia State.

23 But we have regular touchpoints throughout  
24 the year with providers, and anecdotally we will  
25 share things with DCH. Sometimes it's

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1 individualized. Most of the time it's trends.

2 We've heard, you know, from five  
3 providers, some in Central Georgia, some in South  
4 Georgia, some in the metro Atlanta area, this is an  
5 issue, and so we pass that along.

6 Q And have there been trends identified with  
7 respect to specific school-based mental health  
8 services?

9 A No.

10 Q I'm sorry?

11 A No.

12 Q So it's more of like an overall problem  
13 with getting services authorized by care management  
14 organizations?

15 A I wouldn't describe it as a problem, just  
16 a normal part of programmatic management.

17 I would also clarify that the codes that  
18 our contractors, Center of Excellence would pull, as  
19 well as DCH, are community-based mental health  
20 codes. And so without us telling them we're in X  
21 number of schools, they wouldn't know we're in those  
22 schools because they would see just a regular  
23 community-based program. For example,  
24 individualized counseling, they wouldn't know that  
25 it happened in the school setting. They just know

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1 that it happened.

2 MS. COHEN: DCH?

3 THE WITNESS: DCH, correct.

4 BY MR. HOLKINS:

5 Q I just want to make sure I understand, and  
6 I'm sorry, I'm struggling a little bit with my  
7 hearing right now.

8 So DCH -- is it your testimony DCH  
9 wouldn't be able to identify whether, whether a  
10 counseling service that was not being able to --  
11 that it wasn't getting billed to Medicaid was  
12 provided in the school versus another community  
13 setting; is that right?

14 A To reframe, you had asked about  
15 school-based services available in the school. The  
16 way that utilization is tracked is according to  
17 specific Medicaid codes. So each of those services  
18 that we've discussed would have a Medicaid code.  
19 And so if you wanted to see how many times that  
20 service has been used, you would pull that code.

21 Q Right.

22 A There's no school specific Medicaid code.  
23 It would just be, for example, a hundred individual  
24 counseling sessions happened. You would not be able  
25 to discern that 10 percent of those happened in the

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1 school setting, just that they happened.

2 Q Are there Medicaid codes that are specific  
3 to providers of those services, though?

4 A Meaning if a provider has a Medicaid  
5 number?

6 Q Right. Are you able to pinpoint per  
7 provider the amount of Medicaid services that are  
8 being provided?

9 A To a certain degree.

10 Q Could you explain?

11 A For -- in our Apex reporting that we  
12 receive through Georgia State, there is tracking  
13 according to providers. It's self-reported. And so  
14 each month the providers that are contracted for  
15 Apex services will provide -- they will provide a  
16 report to the Center of Excellence; let's say, for  
17 example, we provided 20 individual counseling  
18 sessions this month, in this school.

19 There's also a way to not necessarily pull  
20 by school through internal IT services, but I think  
21 our IT Department can pull to say that X number of  
22 services, individual counseling services for the  
23 uninsured, SSI Medicaid population, has been  
24 provided.

25 But, again, if we didn't have the separate

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1 contract with the Center of Excellence, we wouldn't  
2 know the number of children that were managed care  
3 covered lives that were served.

4 Q Thank you.

5 Do you know if general education schools  
6 in Georgia can enroll as Medicaid providers where  
7 they're going directly to CMOs?

8 A I don't know the answer to that.

9 Q Do you know if GNETS facilities can enroll  
10 as Medicaid providers where they are billing  
11 directly to CMOs?

12 A I don't know the answer to that.

13 MR. HOLKINS: Let's move on to another  
14 document.

15 (WHEREUPON, Plaintiff's Exhibit-10 was  
16 marked for identification.)

17 BY MR. HOLKINS:

18 Q You've just been handed what has been  
19 marked Exhibit 10.

20 MR. HOLKINS: I'll note for the record  
21 this is a complete copy of the State of  
22 Georgia's Community Mental Health Services  
23 Block Grant Application for FY2021.

24 It's publicly available on the website of  
25 the U.S. Department of Health & Human Services.

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1 As indicated on Pages 2 and 3 of the  
2 document, it was submitted by the Georgia  
3 Department of Behavioral Health and  
4 Developmental Disabilities on 9/3/2019 and  
5 revised on 12/3/2020.

6 BY MR. HOLKINS:

7 Q Mr. McKay, have you ever seen this  
8 document before?

9 A I've seen a portion of a draft of this  
10 document.

11 Q And what portion of the document did you  
12 see a draft of?

13 A Flipping through, it looks like it lists  
14 the indicators that we're required to submit to  
15 SAMHSA annually. So I have a role in updating  
16 those.

17 I suspect there may be a child and  
18 adolescent section in here. I would have been asked  
19 to review that for accuracy.

20 Q Please take a moment.

21 If you're looking for the Child and  
22 Adolescent Mental Health section, it starts on Page  
23 95.

24 A Yes, I would have been asked to review  
25 this portion of this document, but not in its

1 current form, and I can't say with certainty that  
2 what is listed here is the -- contained any edits or  
3 comments I would have made.

4 Q And that's all right. I think we can --  
5 take your time, but I'm actually going to ask you  
6 questions about your contributions but more so just  
7 pieces of the document, whether or not you drafted  
8 them.

9 A Okay.

10 Q Okay. But let me just ask, stepping back  
11 from this specific version, could you describe what  
12 your contributions are to these block grant  
13 applications?

14 A We're required to annually -- it's like a  
15 two-year application cycle, but we're required to do  
16 annual submissions. And in some instances those  
17 submissions are updates to say we're on track or off  
18 track and give reasons as to why we may be off  
19 track.

20 And then the other instances we are  
21 submitting a new application for additional funding  
22 and telling the Federal Government what we intend to  
23 do with those funds.

24 A lot of it may be a continuation,  
25 speaking for my office, continuation of what was in

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1 the previous two-year cycle. Sometimes there are  
2 modifications to that.

3 I will have a role in, in saying what  
4 programs we would like to continue or modify based  
5 upon learnings and outcomes, experience over the  
6 previous grant cycles.

7 Q Thank you.

8 So I want to direct you specifically to  
9 Page 172 of the document. I put a sticky there.  
10 And the title for Page 172 is "Child and Adolescent  
11 Mental Health - Plans" -- excuse me. "Child and  
12 Adolescent Mental Health - Plans to Address Unmet  
13 Needs."

14 Do you see where I am?

15 A Yes.

16 Q Okay. Do you make any contributions to  
17 this section of the application?

18 A There's possibility, yes.

19 Same answer as before. This is a -- this  
20 is pretty much a standard document that has existed,  
21 you know, prior to my tenure, and from -- and we're  
22 asked for periodic updates. There's not a whole lot  
23 that changes from plan to plan.

24 And if I did make edits or whether it's  
25 retractions or additions or word modifications, I

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1 can't say that this is the final draft of what I  
2 submitted.

3 Q That's fine.

4 Give me one second.

5 So I want to direct you to on Page 172,  
6 the third full paragraph that starts "As  
7 summarized."

8 Do you see that paragraph?

9 A Yes.

10 Q So this excerpt reads: "As summarized in  
11 the data and Regional Advisory Council  
12 recommendations, there is a need to expand  
13 availability of core and specialty services to  
14 children and adolescents, particularly in rural  
15 areas of the state."

16 Is that statement consistent with your  
17 observations and experience?

18 A Yes. Overall -- overall, yes.

19 The Regional Advisory Council, I'm unclear  
20 as to which regional advisory council is being  
21 referenced here.

22 Q What's the basis -- sorry.

23 Go ahead.

24 A So, in general, the statement about  
25 increasing access to services, especially in rural

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1 areas, generally applies.

2 This is based upon a recommendation by the  
3 Regional Advisory Council. I don't know what that  
4 is.

5 Q Okay. So setting aside the Regional  
6 Advisory Council recommendations, what's the basis  
7 for your opinion that there's a need to expand  
8 availability of core and specialty services to  
9 children and adolescents, particularly in rural  
10 areas of the state?

11 A Just generally speaking, according to  
12 trends and general statistics, which have actually  
13 increased during the pandemic, but so many children  
14 -- I think I last saw one in -- for a long time it  
15 was one-in-five children require -- had a behavioral  
16 health diagnosis that required services.

17 I know that that statistic has increased  
18 during the pandemic, but just realizing the ratio of  
19 children that need those services, there's always  
20 the need to increase access to try to meet that  
21 demand.

22 Q And what specific data do you look at that  
23 informs this assessment?

24 A SAMHSA would be one organization that puts  
25 out data on a regular basis. I can't call attention

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1 to one specific data point, but I would look at  
2 maybe SAMHSA. I would look at Mental Health  
3 America.

4 There are annual kind of report cards that  
5 are put out nationally. You tend to kind of look at  
6 those things.

7 Q And just to be clear, I'm asking about  
8 data that you look at that is specific to the need  
9 to increase availability of community behavioral  
10 services in Georgia. What data do you look at for  
11 that?

12 A It would be the things that I've  
13 mentioned.

14 Q Okay, thank you.

15 In your view, what community-based  
16 behavioral services in particular does the State  
17 need to increase availability of to serve children  
18 with behavioral health conditions?

19 MR. PICO PRATS: Objection.

20 A I would say access to services generally,  
21 probably, based upon individualized needs, whether  
22 it's individual counseling, whether it's family  
23 counseling, whether it's group counseling. Those  
24 would be determined during the assessment phase by  
25 behavioral health professional.

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1 Q I'm not asking, though, about the specific  
2 needs of individual children but rather specific  
3 gaps in the system.

4 Are you aware of the need for the State of  
5 Georgia to increase any specific community-based  
6 behavioral service?

7 A Not specifically, no.

8 Q So to give a concrete example, does  
9 Georgia need to expand availability of IC3?

10 MR. PICO PRATS: Objection.

11 A Generally speaking -- I can't speak to  
12 specifics, but general speaking, it's, it's  
13 generally accepted that Georgia, along with every  
14 other state in the country, has a professional  
15 health care shortage. There are places in the State  
16 that have no behavioral health professionals,  
17 whether it's psychologists, whether it's a  
18 pediatrician.

19 And so the way to combat that is to do  
20 things like place clinicians in schools. Because  
21 one of the barriers of access to services could be  
22 transportation in rural communities.

23 It would be to facilitate the availability  
24 of telemedicine. Again, to kind of address  
25 transportation kind of concerns.

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1 And so, generally speaking, it's just  
2 generally accepted throughout the country in this  
3 field that they're workforce in-service challenges.

4 Q I'd like to set aside this document for  
5 just a second and show you another one. We'll  
6 return to that, though, if you could keep that page.

7 (WHEREUPON, Plaintiff's Exhibit-11 was  
8 marked for identification.)

9 BY MR. HOLKINS:

10 Q You've just been handed what's been marked  
11 Exhibit 11.

12 MR. HOLKINS: For the record, this is  
13 GA00006288.

14 BY MR. HOLKINS:

15 Q Mr. McKay, this is an email chain in which  
16 you're both a sender and a recipient from 2018.

17 Please take a minute to review the  
18 document.

19 A Okay.

20 (Witness reviews exhibit.)

21 Q I'd like to direct you to the email that  
22 you wrote. It starts at the bottom of Page 1, on  
23 May 11, 2018, at 12:38 p.m., and continues on to  
24 Page 2 of this document.

25 You write in that email: "We would like

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1 for this service to be available statewide."

2 Do you see that text?

3 A Yes.

4 Q By "this service," you're referring to  
5 IC3, correct?

6 A A complicated answer. It requires some  
7 context.

8 So some brief history is that -- so to  
9 move away from the name IC3 but more so what this  
10 service is, is high-fidelity wraparound, and  
11 historically this service predates my tenure at  
12 DBHDD, but it started as a demonstration project.  
13 This is a federally funded program, started as a  
14 demonstration project, and then it moved to a  
15 federal waiver that was supported by two different  
16 federal fund sources that sunset.

17 Some years back, because we were aware  
18 that those fund sources would run out, there was a  
19 request to the Department of Community Health, DCH,  
20 to submit a state Medicaid plan, a waiver, state  
21 Medicaid plan amendment, to add this service to  
22 state Medicaid plan for eligibility for Medicaid  
23 reimbursement to sustain it when those federal fund  
24 sources ran out.

25 It had different names along the way. You

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1 see references to CBAY, but, again, it kind of goes  
2 back to the names associated with the federal fund  
3 sources.

4 The legacy of this is IC3, which is not  
5 exactly the same thing, but it is a high-fidelity  
6 wraparound service.

7 And this chain is referencing to the  
8 enrollment process that would have needed to be  
9 undertaken to move them from that old kind of  
10 framework infrastructure to this new IC3 framework  
11 infrastructure, which required some reenrollment and  
12 classification of the providers that were  
13 participating.

14 Q Thank you very much for that explanation.

15 So is it fair to say that high-fidelity  
16 wraparound as used in this document is a precursor  
17 to the IC3 service that currently exists in the  
18 State of Georgia?

19 A Yes.

20 Q And is it also fair to say that at time  
21 you wrote this email, high-fidelity wraparound was  
22 not available statewide?

23 A No, that is not correct. It was a  
24 transition from its previous payor source to its  
25 current payor source.

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1 Q The question, though, is: Was  
2 high-fidelity wraparound available in every region  
3 of the state at the time that you wrote this email?

4 A Yes.

5 Q There were providers of high-fidelity  
6 wraparound in every region of the state in 2018?

7 A No. There are two CMEs, according to the  
8 model, care management entities, that provide this  
9 service statewide.

10 So there are statewide focused provider  
11 organizations, which requires from an IT system  
12 perspective, provider enrollment perspective, a  
13 difference for these two particular programs from  
14 how the system is set up, because providers are  
15 enrolled and approved based upon particular  
16 catchment areas.

17 These particular providers, their  
18 catchment areas are statewide. So in making that  
19 transition, this was the nuts and bolts kind of  
20 conversation that we were undertaking to make sure  
21 that the systems were in place when it transitioned  
22 to this new payor source.

23 Q Are there still just two CMEs providing --

24 A Currently.

25 Q -- IC3?

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1 A Yes, there are two CMEs providing IC3.

2 Q And that covers the full state?

3 A Yes. We have an active procurement right  
4 now to expand but currently there are only two CMEs.

5 Q To be clear, do those CMEs have an office  
6 in every region of the state where IC3 is available?

7 A I don't know that. They have a presence  
8 in every region of the state. I don't know if they  
9 have a physical office in every region of the state.

10 Q Do you undertake any analysis of whether  
11 or not the two CMEs currently offering IC3 in the  
12 State of Georgia are meeting the need for the  
13 service statewide?

14 A We do receive regular reports, yes.

15 Q And so you analyze whether or not those  
16 providers are meeting the need for IC3 in every  
17 region of the state?

18 A I can't answer that question.

19 Q Why not?

20 A It's -- I don't know the answer to it.

21 Q Okay.

22 A But to reframe, there are data points,  
23 various categories, and we measure according to  
24 those data points.

25 I don't know a need for a particular

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1 county or community. I know I can see that we're  
2 tracking -- say one of the metrics would be did a  
3 child and family team meeting occur, and I can see  
4 how many of those occurred.

5 And, for example, a metric would be CANS,  
6 a Child and Adolescent Needs Assessment. I can see  
7 if the CANS was administered and enrollment and  
8 periodically during the period of enrollment,  
9 whether it happened every 90 days or 45 days.

10 And trend-wise, aggregate level, because  
11 we don't receive individualized records, would be  
12 for the number of children that were enrolled that  
13 received the CANS, did they have any kind of -- did  
14 the CANS assessment demonstrate improvement over  
15 time.

16 So, yes, we receive regular data, but I  
17 can't answer the question about your needs question.

18 Q Why did you -- why are you seeking now to  
19 expand the number of providers of IC3 in the state?

20 A So the providers do provide statewide  
21 services. Is that service even throughout the  
22 state? No.

23 We have learned that there may be benefits  
24 to adding some additional CMEs in South Georgia.  
25 They're less services that we have seen for various

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1 factors. And so having some providers physically --  
2 well, office physically in, that being their home  
3 catchment area, we are hoping to expand to see if  
4 there's improvement there.

5 Q And how did you identify South Georgia as  
6 an area where there may be a need for additional  
7 IC3?

8 A Through our reports, looking at trends  
9 over time. There are density areas where services  
10 were -- where referrals were made and where  
11 individuals are actually enrolled. And on those  
12 particular maps, there are some that are very dark,  
13 meaning high density, high enrollment. There are  
14 some that are middle shade, and then there are some  
15 that are light. And there are some that are white,  
16 meaning that there were no enrollments, or if there  
17 were enrollments, there were no -- there were no  
18 referrals -- excuse me.

19 There may have been no referrals, or if  
20 there were referrals, there were no enrollments,  
21 because families do have a choice in whether they  
22 want to enroll in the service.

23 Q Where do you obtain those maps with  
24 shading showing the different levels of enrollment?

25 A Through the Center of Excellence. So

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1 Georgia State.

2 Q And that's specific to IC3?

3 A Correct.

4 Q Do you receive those reports for any other  
5 community-based behavioral health services available  
6 to children and adolescents?

7 A We receive a map as a part of Apex but  
8 it's a different kind of map.

9 Q It's not specific to any individual  
10 service, right?

11 A Correct. It's just a map that shows where  
12 the Apex program has a presence.

13 Q Okay. So you don't receive a map like  
14 that for, for instance, crisis intervention?

15 A No.

16 Q For counseling?

17 A No.

18 Q What about behavioral health assessments,  
19 do you receive a map for that?

20 A No. I would only receive a map for that  
21 for the programs that we have contracted with for --  
22 through the Center of Excellence.

23 Q Okay.

24 A And specifically the only two that I've  
25 mentioned of the three would be Apex and IC3.

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1 Q And just to finish this line, do you  
2 receive any reporting from the Center of Excellence  
3 or someone else regarding utilization of IC3 within  
4 GNETS facilities?

5 A No.

6 Q Do you know if anyone is assessing  
7 utilization of IC3 in GNETS facilities?

8 MR. PICO PRATS: Objection.

9 A So it's not school specific. It would be  
10 just generally, by region or county or by referral  
11 source. And none of the referral sources are GNETS  
12 specifically.

13 Q I guess I'm asking you to step beyond like  
14 the data that comes to you in your current role at  
15 DBHDD. Based on your coordination with other state  
16 agency partners, do you know whether other agencies  
17 for the State of Georgia are analyzing, tracking  
18 utilization of IC3 by GNETS enrolled students.

19 MR. PICO PRATS: Objection.

20 A I do not know that.

21 Q If you wanted to discern the answer to  
22 that, who would you ask?

23 A So my first inclination is that they would  
24 not be able to do that without -- because they would  
25 need to go to the Center of Excellence, and the

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1 Center of Excellence would need to request our  
2 permission.

3 But schools at the local district or local  
4 education authority level, I don't know what data  
5 they track. They may know that a child has been  
6 enrolled in IC3 and they may track that. Those  
7 metrics may or may not align with the data that we  
8 track, but I don't know if it exists.

9 So I imagine if you were to ask if, you  
10 know, someone was tracking IC3 enrollment, then  
11 maybe you could ask the local school districts if  
12 they're tracking it.

13 Q Can we return to Page 172 of the block  
14 grant.

15 You can set aside the email. Thank you.

16 A You said 172?

17 Q So picking up where we left off, in that  
18 same paragraph, in the middle of Page 172, it reads:  
19 "There are some areas where there are limited  
20 providers. In addition, there has been the need  
21 identified to provide services closer to where  
22 children live in their homes and communities to  
23 avoid more costly and intensive out of home  
24 treatment."

25 Do you see that?

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1 A Yes.

2 Q Do you agree with the title that there has  
3 been the need identified to provide services closer  
4 to where children live in their homes and  
5 communities to avoid more costly and intensive out  
6 of home treatment?

7 A Yes.

8 Q What's the basis for that belief?

9 A If you think about services on a -- there  
10 are a couple of different ways to assess them.

11 There are tiered services. So Tier 1 --  
12 and this may vary from agency to agency. And some  
13 -- our agency is a three-tier model, especially for  
14 Apex.

15 Tier 1, universal prevention, all  
16 children.

17 Tier 2 would be those identified at risk.  
18 You may suspect that there is some behavioral health  
19 deficiencies, but they haven't been identified. So  
20 you would start services to, to determine or not if  
21 there is a formal diagnosis.

22 And then Tier 3 would be intensive  
23 services, youth that have been you identified as  
24 having a behavioral health diagnosis.

25 So that's one framework.

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1           The other framework would be, laying on a  
2     scale from left to right, prevention services, early  
3     intervention, intervention, late intervention.

4           You -- from a general practice, generally  
5     speaking perspective, historically before some  
6     services that have come online over the last couple  
7     of years, services would be introduced at that Tier  
8     3, when students were already in an intensive stage  
9     and needed a diagnosis -- they would be assessed and  
10    a diagnosis would be there; or late intervention,  
11    meaning psychiatric residential treatment  
12    facilities, crisis stabilization.

13           It is better, in my opinion, from a  
14    general practice, to try to introduce services  
15    earlier on in the continuum. So universal Tier 1 or  
16    prevention, early intervention.

17           And so keeping that in mind, that would  
18    align with earlier identification access to try to,  
19    if possible, bend the acuity curve by not waiting  
20    for -- to connect with students when they're much  
21    sicker.

22           Q     Thank you very much for that.

23                    So one of the goals in focusing on  
24    prevention-based services is to keep children closer  
25    to their homes and families; is that correct?

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1 A That's correct, yes.

2 Q So skipping to the next paragraph on the  
3 same page, the first line reads: "DBHDD will work  
4 with other child-serving agencies and partners to  
5 increase the number of youth with SED receiving  
6 services from public mental health system as well as  
7 increase the number of youth receiving services in  
8 their homes and communities."

9 Do you see that?

10 A Yes.

11 Q What efforts are you undertaking  
12 personally to work with other child-serving agencies  
13 and partners to increase the number of youth  
14 receiving services in their homes and communities?

15 A There are standing or regular meetings  
16 individually between the child-server agencies,  
17 between DBHDD and DCH.

18 We have now installed a liaison at the  
19 Department of Education part of the time, and they  
20 participate in a standing Apex meeting.

21 There were regular standing meetings prior  
22 to the change in leadership at the Department of  
23 Family and Children Services, so DFCS.

24 We participate on task forces in meetings  
25 that are led by the Department of Early Care and

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1 Learning. So that would be an example of just  
2 direct interagency participation.

3 Then there's something called an  
4 Interagency Directors Team that includes all of the  
5 child serving agencies that meets monthly. IDT is  
6 the organization that created the state System of  
7 Care plan. DBHDD provides the funding for that  
8 infrastructure. So we support and encourage  
9 collaboration between child-serving agencies that  
10 way.

11 And then there is something called the  
12 Local Interagency Planning Teams required by the  
13 Georgia statute. We provide administrative support  
14 for that function as well.

15 And in the statute it is required --  
16 child-serving agencies are required to participate  
17 in those local meetings.

18 Q Thank you.

19 Do you think your efforts working across  
20 child-serving agencies to increase the number of  
21 youth receiving services in their homes and  
22 communities have been successful?

23 MR. PICO PRATS: Objection.

24 A Yes.

25 Q Why?

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1 A From the -- so -- so yes.

2 Is it consistent? Like the data ebbs and  
3 flows, but, for example, Apex enrollment increased  
4 year over year prior to the pandemic. It has  
5 flattened out with the pandemic.

6 I think that is true of many of the -- for  
7 the data points that I've seen, it was -- there were  
8 year over year increases. But when the pandemic  
9 hit, some of those have flattened or in some cases  
10 decreased.

11 In terms of having a System of Care state  
12 plan, there were years where we did not have a  
13 System of Care state plan, and through our funding  
14 to support that administrative framework there was a  
15 plan that was created and implemented, and there is  
16 a current plan that's being implemented.

17 And so without our efforts, we feel that  
18 there would be no plan, no System of Care state plan  
19 in place, as it was prior to those efforts.

20 Q So returning to Page 172 of this document,  
21 the last full paragraph on the page, under the title  
22 "Use of Evidence-based Practices and Promising  
23 Practices," do you see that section?

24 A Yes.

25 Q The first line reads: "The ability to

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1 keep youth in their communities and to improve their  
2 functioning is directly related to the types of  
3 services and supports made available to them and  
4 their families."

5 Is that statement consistent with your  
6 observation and experience?

7 A The first sentence?

8 Q Yes.

9 A Yes.

10 Q We talked a bit about evidence-based  
11 practices earlier. I want to circle back to that to  
12 ask just a couple of brief follow-up questions, and  
13 this is with respect to the second sentence in that  
14 same paragraph, which reads: "DBHDD will continue  
15 to train its workforce on evidence-based and  
16 promising practices."

17 I'm hoping you can identify for me the  
18 specific evidence-based practices that the DBHDD  
19 trains its workforce on?

20 A I cannot. I am not a clinical person. I  
21 have clinicians on my team, and clinicians within  
22 the Division, and there are certain practices that  
23 have been deemed evidence-based and show outcomes.  
24 So I lean on my team for those recommendations.

25 And then, as mentioned earlier, with the

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1 child welfare reform there are evidence-based  
2 practices that are being evaluated at the federal  
3 level, that are then added to a clearinghouse. So  
4 that determines -- that has some determination on  
5 what, what EPBs are funded and sustainable in  
6 communities to be provided by providers.

7 Q I understand that. I'm just trying to  
8 figure out what practices your office trains on  
9 currently, and I guess my next question is, who  
10 would be the right person on your staff to ask about  
11 that?

12 A I would say Dr. Adell Flowers would be  
13 best positioned to answer that question about my  
14 office.

15 She leads that work. She curated  
16 development of Clinical Developmental Academy, and  
17 selected the EPBs that are offered under that.

18 She leads the planning for the annual  
19 System of Care Academy and the EBPs that are offered  
20 as a part of that.

21 Q Thank you.

22 Please turn to Page 173. I'd like to  
23 direct you to the section entitled "Improve  
24 Functioning of Youth with SED."

25 And that paragraph starts: "DBHDD focuses

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1 on service provision that leads to improved  
2 functioning of youth with SED. The goal is to  
3 maintain youth in their homes, schools and  
4 communities and divert them from criminal justice  
5 and higher levels of care. The use of High-Fidelity  
6 Wraparound services with Care Management Entity  
7 Services provide for a coordinated approach to  
8 planning and acquiring along with a family and youth  
9 the services and supports that are needed to  
10 maintain a youth who is challenged with SED in their  
11 communities and to improve their functioning at  
12 home, in school and in their community."

13 Do you see IC3 as important to helping  
14 DBHDD achieve its goal of maintaining youth in their  
15 homes, schools and communities and diverting them  
16 from criminal justice and higher levels of care?

17 A Yes.

18 Q Is that -- I'm sorry. Go ahead.

19 A I just said yes.

20 Q Okay. Is that true generally for the  
21 services that we discussed earlier that were  
22 identified in the State's supplemental response to  
23 Interrogatory No. 17?

24 A Generally speaking, yes.

25 Clarification: IC3 is again more of a

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1 framework that utilizes several of the services that  
2 were listed.

3 So, so yes.

4 Q Thank you for that clarification.

5 At the present time, has your office set  
6 forth any specific goals for the expansion of IC3?

7 A Yes.

8 Q What are those goals?

9 A To expand by two CMEs, and for those two  
10 CMEs to have a home based in South Georgia.

11 Q Do you have specific targets as to how  
12 many additional children you hope to serve through  
13 that expansion?

14 A No.

15 Q Has your office set goals with respect to  
16 expanding any of the other services identified in  
17 the State's supplemental response, Interrogatory No.  
18 17?

19 And feel free to refer back to it if you  
20 need to. That's Exhibit 8.

21 A I'm sorry, someone said something.

22 Can you restate the question?

23 Q Has your office set goals with respect to  
24 expanding any of the other services identified in  
25 the State's supplemental response to Interrogatory

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1 No. 17?

2 A Yes. To Parent and Youth Peer Support.

3 Q And what is the target that your office  
4 has set for expanding that service?

5 A That every Tier 1 provider will enroll in  
6 that service and hire a certified -- at least one  
7 parent certified peer specialist and one youth  
8 certified peer specialist, to be able to provide  
9 those services in their various catchment areas.

10 Q Why did you create that goal?

11 A This -- when we amended the state plan to,  
12 to create IC3, we also amended the state plan to  
13 create these services, which had traditionally been  
14 complimentary as a part of the waiver. So we  
15 created standalone services. And to build  
16 utilization and access across the state, providers  
17 would need to enroll in the service, and once  
18 they're enrolled in the service, they then go hire  
19 individuals that meet that criteria, that have lived  
20 experience.

21 That has not gone well since we amended  
22 the state Medicaid plan, and I don't remember  
23 exactly, but it's been a couple of years.

24 So to encourage providers to enroll in  
25 that and to hire these individuals that have been

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1 demonstrated to be very important to resiliency and  
2 long-term recovery, we have set goals, like I said,  
3 for each Tier 1 provider to hire at least one CPSP  
4 and one CPSY; our 2 -- Tier 2 plus providers to do  
5 the same; and then our family support organizations,  
6 which the acronym for those are FSOs, to hire.

7 Q Thank you.

8 And just to complete the line of  
9 questioning, are there any other services identified  
10 in the State's supplemental response to  
11 Interrogatory No. 17 where your office has set  
12 specific goals for expanding the service?

13 A Not that I'm aware of.

14 Q I just have one more question before we  
15 turn away from this document and take a short break.

16 This statement on Page 173 that I read  
17 earlier, the statement is "the goal is to maintain  
18 youth in their homes, schools and communities and  
19 divert them from criminal justice and higher levels  
20 of care."

21 In your view, does that statement apply to  
22 maintaining children in general education settings  
23 and avoiding placement in GNETS?

24 MR. PICO PRATS: Objection.

25 A I lost the paragraph -- or the sentence.

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1 Q Sure. This is under "Improve Functioning  
2 of Youth with SED," and Page 173.

3 A Okay.

4 Q You want me to restate the question?

5 A Redirect my attention to the sentence and  
6 if you could restate the question.

7 Q The sentence I called your attention to  
8 was the second sentence under that heading, and the  
9 sentence reads: "The goal is to maintain youth in  
10 their homes, schools and communities and divert them  
11 from criminal justice and higher levels of care."

12 And my question to you is, whether that's  
13 consistent with the goal to divert children from  
14 placement in GNETS?

15 MR. PICO PRATS: Objection.

16 A I can't answer that. This is generally  
17 speaking. It would apply to all children.

18 Q Would it apply to GNET settings?

19 A It would apply to, to all children.

20 Essentially, to increase access to  
21 services before they become most acute and try to  
22 maintain them in their communities, along with their  
23 families, who, who at times also require supports,  
24 like family therapy or parent peer support.

25 Q Do you view GNETS as a higher level of

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1 care?

2 A I would be speculating. I don't know. I  
3 have not analyzed -- I'm not aware of there being  
4 different levels of care within school settings, so  
5 I can't answer that.

6 MR. HOLKINS: Let's take a break.

7 Would 10 minutes be all right? Thank you.

8 THE VIDEOGRAPHER: Off the record at 3:04  
9 p.m.

10 (A recess was taken.)

11 THE VIDEOGRAPHER: We're back on the  
12 record at 3:20 p.m.

13 BY MR. HOLKINS:

14 Q Mr. McKay, I just have one more question  
15 for you about the exhibit that's in front of you,  
16 which is the block grant, Exhibit 10.

17 Going back to the goal I was directing to  
18 you earlier, on Page 173, do you view GNETS as a  
19 community placement --

20 MR. HOLKINS: Let me rephrase.

21 Q Do you view GNETS as a community setting  
22 for purposes of this goal?

23 MR. PICO PRATS: Object.

24 A Yes, I can't -- I can't speak to that.

25 Q Because -- I'm sorry, go ahead.

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1           Is that because you don't have knowledge  
2 regarding GNETS facilities?

3           A     Yes, I would say that's a true statement.

4           I don't know what happens within the GNETS  
5 setting, and I don't know how -- I don't know  
6 specifically in those levels of care that I  
7 mentioned where GNETS fits in that.

8           I know that schools generally have a  
9 climate rating and schools try to align the climate  
10 ratings with those three levels of care that I  
11 mentioned earlier: Prevention, intervention --  
12 well, prevention, at risk, Tier 2. And then Tier 3,  
13 intensive level.

14           But I don't know how GNETS reconciles with  
15 that.

16           Q     So do you not know whether GNETS services  
17 are just one tier or all three tiers?

18           A     No. Specifically I do not know.

19           Q     Would you describe GNETS facilities  
20 geographically as existing in children's home -- in  
21 their home communities?

22           A     I can't answer that because I'm not  
23 familiar with who's enrolled in the GNETS --  
24 particular GNETS program, and where that program  
25 would be in reference to where they live. I don't

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1 know.

2 Q Are students enrolled in GNETS eligible  
3 for Apex services?

4 A I think it would depend on the location of  
5 the program.

6 The way that the schools are selected, the  
7 department, DBHDD, does not direct that this school  
8 or that school becomes a part of the Apex program.

9 The funding goes to our enrolled providers  
10 that are approved, either as community service  
11 boards or because they were successful offerors in  
12 the procurements to expand the program, and those  
13 providers as a part of that procurement process  
14 would have produced a letter of support from the  
15 local school superintendent and would have included  
16 in their plan a list of schools that they would  
17 utilize the funds to go into.

18 So the decision-making would be between  
19 the community providers and the local school  
20 districts based upon the needs that they determine.

21 Q I'd like to show you another document.  
22 You can put aside that block grant.

23 (WHEREUPON, Plaintiff's Exhibit-12 was  
24 marked for identification.)  
25

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1 BY MR. HOLKINS:

2 Q You've just been handed what's been marked  
3 Exhibit 12. Please take a moment to review the  
4 document.

5 (Witness reviews exhibit.)

6 A Yes.

7 MR. HOLKINS: For the record, this is  
8 GA00653209, and was produced by the State of  
9 Georgia to the United States in this matter.

10 The title of this document is "FAQ for  
11 Agency Leadership."

12 BY MR. HOLKINS:

13 Q Mr. McKay, this is an FAQ regarding the  
14 Apex program that was developed for DBHDD  
15 leadership, correct?

16 A I'm uncertain.

17 I have seen a version of this document but  
18 I do not think this is the final draft of this  
19 document.

20 Q Well, let's focus specifically on Pages 1  
21 and 2. At the bottom of Page 1, carrying on to Page  
22 2, the FAQ that starts: "Can Apex clinician serve  
23 GNETS students?"

24 Do you see that?

25 A Yes.

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1 Q Does the answer to that question  
2 accurately capture DBHDD's policy with respect to  
3 Apex services being received by GNET students?

4 A No.

5 Q What's different?

6 A So the model of Apex is to serve all  
7 three-tiers. Providers receive funds to serve  
8 students in all three tiers within a particular  
9 school.

10 So if it is Tier 1, prevention; Tier 2, at  
11 risk; Tier 3, intensive services.

12 My understanding of the GNETS population  
13 is that they could possibly fit in Tier 2 but most  
14 likely they're going to fit in Tier 3.

15 Apex is not funded to just serve Tier 3  
16 settings. Again, the model is -- because students  
17 churn between the various tiers, from prevention, to  
18 maybe at risk, back to prevention. They may have a  
19 crisis which is Tier 3, and then they go back to  
20 prevention.

21 So the model is to serve all three tiers.

22 And so far GNETS programs, according to my  
23 understanding, that are embedded within the school,  
24 yes, that student could be served as part of the  
25 Apex program, just like any other student in the

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1 school.

2 If it is a GNETS program that is located  
3 on a campus, I would say the same is true.

4 If it is a standalone GNETS program, that  
5 model does not align with the Apex program.

6 Q Thank you for that clarification.

7 And that decision was made by DBHDD to  
8 draw the lines in that way; is that correct?

9 Let me just try that again.

10 So this is DBHDD's policy with respect to  
11 the implementation of the Apex program, correct?

12 A I would say -- so to reframe that  
13 question, this model, three-tier model, in some  
14 cases four-tier model, is generally accepted  
15 practice within this field. So DBHDD adopted the  
16 three-tier model; we didn't create it.

17 In adopting the three-tier model and  
18 utilizing that as policy, then, yes, you could say  
19 it is DBHDD policy to apply the three-tier model,  
20 but we did not create that.

21 Q But you, DBHDD, did ultimately design  
22 Apex? It chose the three-tier model, correct?

23 A Correct.

24 Q And in so choosing, it precluded students  
25 enrolled in GNETS, at a standalone GNETS facility,

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1 from receiving Apex services, correct?

2 A I don't think that's an accurate  
3 statement.

4 Q Are students who are currently enrolled in  
5 GNETS, at a standalone GNETS facility, currently  
6 able to receive Apex services?

7 A That -- the standalone GNETS program  
8 doesn't align with the model.

9 So if an Apex provider only -- it would  
10 have to be a part of the overall programming.

11 MS. COHEN: Excuse me?

12 A It would have to be a part of the overall  
13 program, as determined by the provider and the  
14 school leadership, whether it's the superintendent  
15 or the director of student support services,  
16 supported by a member of, you know, MOU and some of  
17 the things that you have mentioned.

18 Q So in theory if --

19 MS. COHEN: Just a minute. I'm just  
20 hearing from some of my colleagues they can't  
21 hear, that the computer needs to be unmuted.

22 MR. HOLKINS: Can you guys hear us now?

23 MS. TAYLOE: Yes, thank you.

24 MS. COHEN: Thank you. Sorry to  
25 interrupt.

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1 BY MR. HOLKINS:

2 Q So in theory, if GNETS were to provide  
3 services across all three tiers, would that address  
4 DBHDD's concern as to providing Apex services --

5 MR. PICO PRATS: Objection.

6 Q -- to GNETS facilities?

7 MR. PICO PRATS: You can answer.

8 A Yes, that would align with the model.

9 Q Let me just reask the question so it's  
10 clear on the record.

11 If all three tiers of services were  
12 available in GNETS facilities, would GNETS  
13 facilities be eligible to receive Apex services?

14 MR. PICO PRATS: Same objection.

15 A Yes. But DBHDD would defer to the  
16 provider and local school leadership to include that  
17 in their proposal for funding support.

18 Q Ultimately, those applications from  
19 providers to enroll in the Apex program are received  
20 by DBHDD, correct?

21 A Correct.

22 Q And DBHDD makes the determination as to  
23 which providers will be enrolled?

24 A Correct, based upon some scoring criteria.

25 Q I'd like to show you another exhibit, 13.

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1 (WHEREUPON, Plaintiff's Exhibit-13 was  
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q You've just been handed what's been marked  
5 Exhibit 13.

6 MR. HOLKINS: For the record, this is  
7 GA00582723.

8 BY MR. HOLKINS:

9 Q It's a series of emails, which you are  
10 both the sender and a recipient.

11 Please take a moment to familiarize  
12 yourself with the document, Mr. McKay.

13 A Okay.

14 (Witness reviews exhibit.)

15 A I've reviewed it.

16 Q Thank you. I'd like to direct your  
17 attention to the email that starts at the bottom of  
18 Page 3 and continues on to Page 4 of this document.

19 This is an email from Kimberly Dempsey,  
20 dated June 13, 2016. It was addressed to Stephanie  
21 Pearson and you. Correct?

22 A So bottom of Page 3 to Page 4?

23 Q Yes. It starts on Page 3 and carries to  
24 Page 4.

25 A Yes.

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1 Q Just for the record, Kimberly Dempsey is  
2 identified in this email as an employee of the  
3 Office of Children, Young Adults and Families at  
4 DBHDD.

5 Did she report to you at the time?

6 A No.

7 Q So Ms. Dempsey writes: It was brought up  
8 at the August RIA -- RAI --

9 MR. HOLKINS: Sorry, let me try this  
10 again.

11 Q Ms. Dempsey writes: "It was brought up at  
12 the Augusta RIAT on Friday that the local GNETs  
13 school has requested Serenity to come via GA APEX.  
14 Can they go to a GNETs school? I would think that  
15 the very nature of a GNETs school would be able to  
16 handle mental health situations but I guess  
17 'treatment' isn't done."

18 First, just for clarity, is Serenity a  
19 community service board?

20 A Yes.

21 Q And what is RA -- excuse me -- RIAT? What  
22 does that mean?

23 A Regional interagency Action Team. That  
24 are now defunct.

25 Q And what's your understanding of Ms.

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1 Dempsey's statement that treatment isn't done in  
2 GNET schools?

3 A I can't speak to Ms. Dempsey's point.  
4 What I can say about Ms. Dempsey is that she is a  
5 joker.

6 Q Let's go to the first page of the  
7 document, in which you email Ms. Dempsey and  
8 Stephanie Pearson on 6/27/2016. Correct?

9 A Correct.

10 Q So in this email you write: "We do not  
11 want Serenity expanding to the GNETS school."

12 Why did you write that?

13 A When this -- when I sent this email I was  
14 three years in my tenure at DBHDD. It would have  
15 been the end of the first year of the DBHDD -- of  
16 the Apex program. The data that we have referenced  
17 throughout this deposition, many of the systems that  
18 were in place did not exist at this point in time.  
19 And we were -- one, I was still learning, very much  
20 in a steep learning curve in terms of the status of  
21 things.

22 And then, two, according to the systems  
23 that ultimately came in play, not a free-for-all,  
24 schools reaching out directly to providers and us  
25 not being able to track utilization, spending, any

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1 of those things, that sort of request, which  
2 ultimately came to be, would need to go through a, a  
3 superintendent level or district level person.

4 So just reading this and thinking about my  
5 mind's state, three months into my tenure there, and  
6 ultimately the things that transpired as the program  
7 evolved over time, I would say I was referencing to  
8 having some systems in place and that that program,  
9 as I understood it at the time, did not align with  
10 the Apex model, the three-tier Apex model.

11 Q You wrote in this email, and this is under  
12 No. 4 in your list: "There's a good chance GNETS  
13 will be sued by DOJ. Thus, we need to be extremely  
14 careful and steer clear of any potential  
15 entanglement."

16 What informed your opinion that there was  
17 a good chance GNETS would be sued by DOJ?

18 A I don't remember.

19 Q And what did you mean by steering clear of  
20 any potential entanglement?

21 A Having definitions of -- for those three  
22 tiers; how the fidelity to the program, how it would  
23 be managed; processes in place for accepting schools  
24 into the program.

25 And then the other consideration was, as I

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1 understood it, providers may have -- provider  
2 organizations may have had direct contract with  
3 particular GNETS programs, so GNETS program to the  
4 provider, and I didn't want entanglement of mixing  
5 DBHDD supported funds with funds that may have  
6 already been received through a direct contractual  
7 relationship.

8 Q On that point I'd like to go back to the  
9 exhibit we were talking about earlier, which was the  
10 FAQ document, Exhibit 12.

11 At the bottom of the first page, this  
12 document reads: "Also GNETS students are already  
13 receiving intensive therapeutic services along with  
14 their educational piece."

15 Do you see that line?

16 A Yes.

17 Q Do you know for a fact whether GNETS  
18 students are receiving already intensive therapeutic  
19 services not through Apex?

20 A I do not know.

21 Q Just to go back to the Apex model, you  
22 referenced DBHDD selected a three-tier model,  
23 correct?

24 Could DBHDD have selected a different  
25 model that did not require three tiers of service?

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1           A       Possibly. But to give you some clarity,  
2       relying on expertise at the Center of Excellence, it  
3       was a contract that I inherited but I continued it,  
4       because there are national school-based associations  
5       and efforts, and national annual conference, and  
6       based upon those best practices, and at the time US  
7       DOE supported multitier systems and supports, the  
8       three-tier model aligned with school climate-related  
9       things that was happening on a national, state and  
10      regional level.

11                 Some MTSS models have four tiers, but I  
12      don't -- I'm not sure if Georgia has adopted the  
13      four-tier, but many of them have three tiers. And  
14      when this program was born, it was born with the  
15      three-tier model, and we've continued the three-tier  
16      model.

17           Q       If DBHDD wanted to abandon the Apex model  
18      to permit --

19                 MR. HOLKINS: Strike that.

20      BY MR. HOLKINS:

21           Q       I'd like to show you another document.  
22                     (WHEREUPON, Plaintiff's Exhibit-14 was  
23      marked for identification.)

24      BY MR. HOLKINS:

25           Q       You've just been handed what's been marked

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1 Exhibit 14?

2 MR. HOLKINS: For the record this is  
3 GA00636018.

4 BY MR. HOLKINS:

5 Q Mr. McKay, please take a moment to review  
6 the document.

7 (Witness reviews exhibit.)

8 A I've reviewed this.

9 Q These are two -- a series of emails  
10 between you, Deana Farmer and Layla Fitzgerald, in  
11 February and March of 2019 regarding Apex and GNETS.

12 Let me first ask, who is Deana R. Farmer?

13 A She was the former program lead for Apex  
14 at the Georgia State Center of Excellence.

15 Q And who is the current program lead for  
16 Apex at the Georgia Center for Excellence?

17 A Dimple DeSai.

18 Q How long has Mr. DeSai been in that role?

19 A I'm not sure. She's had various roles as  
20 part of Apex. I can't say for sure when she assumed  
21 the lead role.

22 Q So in your email dated February 28, 2019,  
23 to Deana Farmer and Layla Fitzgerald, you ask: "Are  
24 any Apex programs still collaborating with  
25 standalone GNETS programs? If yes, which ones?"

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1 Do you see that?

2 A Yes.

3 Q What was the reason for this outreach?

4 A I don't remember exactly, but reading this  
5 email, I would conclude that I was asked this  
6 question, and I asked the people who I thought would  
7 know the answer to the question or could get the  
8 answer to the question.

9 Q Do you recall who asked, who asked you  
10 this question?

11 A I do not recall who asked this question.

12 Q Do you recall what you did with the  
13 information you received?

14 A I do not recall.

15 Q Do you recall the answer that you received  
16 to that question, "Are any Apex programs still  
17 collaborating with standalone GNETS programs?"

18 A Not specifics, no.

19 Q And do you know right now, sitting here  
20 today, whether any Apex programs are collaborating  
21 with standalone GNETS programs?

22 A No, I don't.

23 I would say the second part to my answer  
24 for that would be as a part of responding to  
25 interrogatories, there may have been a question

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1 about that, and there may have been an answer to  
2 that, but I don't recall what the programs, if any,  
3 were listed. And so I couldn't specifically state,  
4 you know.

5 Q How would you go about answering that  
6 question now?

7 A I probably would ask the same question at  
8 the Center of Excellence, to query the providers and  
9 wait on a response.

10 Q In the reporting that you receive about  
11 Apex from the Center of Excellence, does the Center  
12 of Excellence identify whether GNETS facilities are  
13 participating in the Apex program?

14 A Some of the reports that I receive from  
15 the Center of Excellence are school listings that  
16 list the name of the school that providers are  
17 embedded into. I wouldn't know if a program is a  
18 GNETS program unless it was in the name -- provided  
19 in the school name that was on the list, XYZ GNETS.

20 And I don't recall any of the lists that I  
21 have reviewed recently -- or over time I don't  
22 recall seeing any explicit reference on the list to  
23 a GNETS program.

24 Q I'd like to go back to the email we were  
25 discussing earlier. I think it's Exhibit 13, the

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1 2016 email.

2 Are you able to pull that one back?

3 You write in No. 3 that: "Apex is not  
4 designed for the level of care that GNETS students  
5 require."

6 Do you see that?

7 A Yes.

8 Q Do you still believe that statement to be  
9 true?

10 A If GNETS programs align with Tier 3, and  
11 only Tier 3, then that level of care does not align  
12 with the Apex model.

13 Q But just to make sure I understand, if  
14 GNETS students require Tier 3 services and Apex  
15 provides Tier 3 services, they're not at a different  
16 level of care, are they?

17 A I don't know the answer to that. I don't  
18 know the question that's being asked.

19 Q What I'm trying to ascertain is whether  
20 Tier 3 services available through Apex are the same  
21 Tier 3 services that you think are available through  
22 GNETS?

23 A I don't know the answer to that. But what  
24 I do -- my reframe or clarification would be that  
25 Apex is a three-tier model, all three tiers.

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1 Providers are required to provide all three tiers:  
2 1, 2, and 3.

3 And so if a GNETS program is a Tier 3,  
4 then that three-tiered model would not align with a  
5 single-tier school setting.

6 Q Even if there's overlap in the services  
7 that are provided, correct?

8 A I don't understand that question.

9 Q I understand your point that Apex is a  
10 three-tier model and that GNETS, as you understand  
11 it, is not.

12 My question, though, is whether there's  
13 still overlap in that Tier 3 between the services  
14 that would be readily available at GNETS and the  
15 services provided through Apex?

16 A I can't answer that. I don't know.

17 Q Just above No. 3, No. 2 you write: "Any  
18 conversation related to collaboration needs to  
19 include a discussion about DOE kicking in funding."

20 Do you see that line?

21 A I do.

22 Q You're talking about collaboration between  
23 Apex and GNETS, correct?

24 A Can you repeat the question?

25 Q What is the collaboration that you're

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1 referencing in No. 2?

2 A I don't remember exactly.

3 Q DOE is a reference to the Georgia  
4 Department of Education, correct?

5 A Yes.

6 Q What did you mean when you wrote there  
7 would need to be a discussion about DOE kicking in  
8 funding?

9 A I don't remember. Again, this was very  
10 early in my tenure, and at that point in time there  
11 was no record keeping in place for this program,  
12 other than the number of providers at that time had  
13 been contracted to provide this service.

14 So in speculating, seeing No. 2, that  
15 would have been coming from a place of someone that  
16 was doing his due diligence and trying to get a  
17 sense of the status of the program, while  
18 implementing systems.

19 Q Looking back to the FAQ which is Exhibit  
20 12, back in the bottom of the first page, do you see  
21 the sentence that reads: "A student would be," in  
22 quotes, "'double dipping' if they received both  
23 GNETS and Apex funds and this is not allowed"?

24 A I see that, yes.

25 Q Is that an accurate characterization?

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1 A I don't know.

2 Q Do you know --

3 MR. HOLKINS: Is that an accurate  
4 characterization?

5 Q Do you know how GNETS services are funded?

6 A Not specifically, no.

7 Q What about generally?

8 A Generally, I believe I learned through  
9 those standing meetings with the state level contact  
10 that the programs receive annualized funding  
11 according to some grant model.

12 Looking at this document, I believe this  
13 was addressed, but I don't think in this form that  
14 has been presented that this would have been  
15 published.

16 Q Is there any published statement of  
17 DBHDD's policy with respect to Apex and GNETS?

18 A There is an FAQ on our website currently,  
19 that I think this may be a genesis of where it  
20 ultimately was published, yes. But it should be  
21 available on the DBHDD website.

22 MR. HOLKINS: We will look for it on the  
23 website. If we're not able to locate it,  
24 counsel, we'll request a copy.

25

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1 BY MR. HOLKINS:

2 Q So we have more to discuss about Apex, but  
3 I'd like to go back and just -- so I'm going to read  
4 from what I believe is the DBHDD website you  
5 reference. I don't have a copy of it to share with  
6 you, so I'm just going to ask whether this is  
7 consistent of your recollection of what the website  
8 says. If you don't recall, that's fine and I  
9 understand.

10 The website, as I view it, reads: "Apex  
11 service cannot be provided in private chartered  
12 schools, GNETS standalone facilities, private  
13 schools or homeschools/slider public schools."

14 Is that consistent with your understanding  
15 of DBHDD's policy with respect to Apex and GNETS?

16 A Yes.

17 MS. COHEN: Patrick, if we could just take  
18 five minutes.

19 THE WITNESS: What was that?

20 MR. HOLKINS: Mr. McKay, I like to set  
21 aside those documents and show you some new  
22 ones.

23 (WHEREUPON, Plaintiff's Exhibit-15 was  
24 marked for identification.)  
25

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1 BY MR. HOLKINS:

2 Q You've just been handed what's been marked  
3 Exhibit 15.

4 MR. HOLKINS: I'll note for the record  
5 this is GA00023273.

6 MR. PICO PRATS: Do you have another copy,  
7 Patrick?

8 MR. HOLKINS: I'm sorry. Apologies.

9 MR. PICO PRATS: Thank you.

10 MR. HOLKINS: This is Exhibit 15.

11 BY MR. HOLKINS:

12 Q At the top left corner of this document is  
13 a name, "The Georgia collaborative ASO."

14 Are you familiar with The Georgia  
15 Collaborative ASO?

16 A Yes.

17 Q What is it?

18 A It is the Administrative Service  
19 Organization contracted with DBHDD.

20 Q And what does DBHDD contract with The  
21 Georgia Collaborative ASO for?

22 A I don't know specifically all of the  
23 functions, but one of them would be for approving  
24 authorization to services for individuals who are  
25 uninsured or on SSI Medicaid.

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1 Q This document is titled, "Active Provider  
2 By Service" as of 04/11/2019.

3 It's 41 pages long, and it lists services;  
4 for instance, AD Opioid Maintenance Treatment, and  
5 under each service providers are identified.

6 Is that correct?

7 A Yes.

8 Q So this document would tell you as of this  
9 date, 04/11/2019, all the providers enrolled by  
10 DBHDD for each specific service in the DBHDD  
11 provider manual; is that correct?

12 A No, that is not correct.

13 Q Would you tell me what it does do?

14 A I'm going to -- can we back up --

15 Q Sure.

16 A -- for a second.

17 Can you restate the question for me?

18 Q Oh, yeah, absolutely.

19 So as I understand it, and please do  
20 correct me if I misstate it, what this document does  
21 is it shows you all of the providers for each of the  
22 services listed on the document at the time that the  
23 document was generated, which was 04/11/2019. Is  
24 that consistent with your understanding?

25 A Yes, with caveats.

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1           One, I'm not sure all of the providers are  
2 represented here, but the problem with this  
3 reporting format that we've referenced earlier is  
4 that speaking of Apex, Apex would not be in this  
5 document because Apex is more of a programmatic  
6 framework that makes the unbundled services  
7 available within schools.

8           So it may be reflected here, but I can't  
9 say explicitly that the individual core services  
10 here are inclusive of, say, Apex.

11          Q     Have you seen, if not this specific  
12 version, this kind of a report before?

13          A     I think I have seen this kind of report  
14 before, yes.

15          Q     Sorry, go ahead.

16          A     Yes. Periodically.

17          Q     Is it something that you request?

18          A     No, because it's not helpful to my office.  
19 It doesn't provide a full picture, as we've talked  
20 about, because there is no unique -- for example,  
21 for school-based services, there's no unique  
22 Medicaid codes for school-based services. It's just  
23 community-based services.

24                So I wouldn't know if the individual was  
25 served in the home or in the school, because of the

1 gaps in this reporting, which is why we contracted  
2 with Center of Excellence in maintaining that  
3 contract.

4 And, again, in Georgia, speaking of  
5 children, there are very few uninsured children.  
6 Most have managed care Medicaid or private insurance  
7 or -- and to a lesser degree uninsured, and then  
8 they may have SSI Medicaid.

9 So for a complete picture, we contract  
10 with a university that has access to those multiple  
11 payor sources.

12 Q But if we're going back to your testimony  
13 about that earlier, you only receive reporting from  
14 the Center of Excellence as to specific programs,  
15 correct?

16 A Correct.

17 Q So you don't receive, for instance -- I'll  
18 give you a specific example.

19 I'm just flipping to the -- so let's go  
20 with Intensive Family Intervention, which is on Page  
21 16.

22 A Do you know the number in the -- the last  
23 three numbers at the bottom?

24 Q At the bottom it is 23288, and the top  
25 it's Page 16 of 41.

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1 A Okay. All right.

2 Okay.

3 Q Do you receive in your report anything  
4 from the Center of Excellence about how many  
5 providers --

6 A No.

7 Q -- are offering intensive family  
8 intervention?

9 A No.

10 Q Do you request that information from The  
11 Georgia Collaborative ASO?

12 A No. Not -- so let me modify that answer.  
13 Not consistently, for the reasons that I  
14 have stated previously.

15 There are only a fraction of IFI  
16 providers, Intensive Family Interventions -- it's  
17 IFI for short. Because there's such a small number  
18 of uninsured youth, or those that have SSI Medicaid,  
19 they're not allowed providers contracted with DBHDD  
20 that provides that service because it's not a lot of  
21 children with that fund source that would come  
22 through our doors.

23 Many of the IFI providers have enrolled  
24 with the Department of Community Health because a  
25 large portion of the youth have managed -- Medicaid

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1 managed care. And we do not have access to that  
2 reporting.

3 Q This raises an important question for me.  
4 Do providers, in order to be reimbursed by care  
5 managed organizations for services like Intensive  
6 Family Intervention, do they also have to be  
7 certified as DBHDD providers?

8 A Yes. That, that -- I can't speak with  
9 certainty to the process, but, yes, there is shared  
10 enrollment functions between DBHDD and the  
11 Department of Community Health.

12 Q Okay. So that -- so any provider that is  
13 billing and being reimbursed by Medicaid for this  
14 service, Intensive Family Intervention, would also  
15 need do be enrolled as a DBHDD provider?

16 A Yes. That are reflected here, on this  
17 list.

18 If a provider was only enrolled with DCH  
19 to provide this service, if you're asking if they  
20 also must be enrolled with DBHDD but they didn't  
21 contract with us in any kind of way, I don't know  
22 the answer to that. That would be a question for  
23 the DBHDD Office of Provider Enrollment.

24 But this group, I can say with confidence,  
25 is enrolled with both DBHDD and DCH because they're

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1 reflected on this list.

2 Q But there may be other providers enrolled  
3 through DCH that are not enrolled in DBHDD?

4 A Correct.

5 Q And you said that would be a question for  
6 who? I'm sorry?

7 A The Office of Provider Enrollment, DBHDD.

8 Q And is there a specific person you would  
9 refer that question to?

10 A The director of that office is Camille  
11 Richins.

12 Q I'd like to show you another report, if I  
13 can.

14 (WHEREUPON, Defendant's Exhibit-16 was  
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q Mr. McKay, you've just been handed what  
18 has been marked Exhibit 16.

19 MR. HOLKINS: This document, for the  
20 record, is GA00023586, produced by the State of  
21 Georgia to the United States in this matter.

22 BY MR. HOLKINS:

23 Q At the top of this report it reads  
24 "Provider Report Between 07/01/2017 and 06/30/2018,"  
25 and this document also has up at the top left corner

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1 "The Georgia Collaborative ASO."

2 Let me first ask, Mr. McKay, whether  
3 you've seen versions of this report before?

4 A I may have seen a version of this, yes.

5 Q And what generally does the report show?

6 A I think it's -- it may be annualized  
7 expenditures by program type, by provider.

8 Q Is this for DBHDD enrolled providers?

9 A Yes.

10 Q It includes expenditures broken down by  
11 category, correct?

12 A I believe so, yes.

13 Q One of those categories is state funds and  
14 the other is Medicaid, correct?

15 A Yes, that's correct.

16 Q How do you use this report when you do  
17 receive it?

18 A I don't use this report.

19 Q Why not?

20 A I don't -- it doesn't have enough details  
21 for the child and adolescent services, for one,  
22 because it does not provide a full picture.

23 For -- again, because of how the system is  
24 structured, like I say, going back to use that Apex  
25 as an example, in the reporting that we receive from

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1 the COE -- by payor source, there's a part in the  
2 report that says, you know, CMO covered lives, and  
3 it breaks it down by that CMO. Private insurance,  
4 uninsured. The consistently top category is  
5 Medicaid covered lives.

6 We don't get any of that data, managed  
7 care Medicaid data, in our reporting system.

8 And so looking at this report, to try to  
9 manage an Apex program based upon the information  
10 that's available in this report would not be helpful  
11 because we -- we don't have access to that data  
12 system.

13 Q Given what you've just said, that -- let  
14 me just break it down. I want to make sure I  
15 understand this correctly.

16 I think one thing you said, and a couple  
17 of times today, is that many children are receiving  
18 services, behavioral health services, in the State  
19 funded through Medicaid, correct?

20 A Correct.

21 Q And you don't have access to that data at  
22 DBHDD, correct?

23 A Correct.

24 Q And one of your core responsibilities is  
25 to write policy relating to behavioral health

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1 services for the State of Georgia; is that correct?

2 A For the public system, yes, that's  
3 correct.

4 Q For the public system. Thank you.

5 Do you think that you're able to  
6 effectively doing that without being able to access  
7 data regarding the large number of children who are  
8 receiving behavioral health services funded by  
9 Medicaid?

10 A Based upon the information that we get  
11 through our COE reporting, yes.

12 Q But from what you told me, the COE  
13 reporting is specific to certain programs; is that  
14 correct?

15 A It is. But those are frameworks for many  
16 of the services that are listed in core services.

17 So Apex itself is not a service; it's a  
18 program that makes core services available.

19 So by receiving regular reporting on  
20 individual counseling, per se, then, yes, it's a  
21 good indicator and lends into how children are  
22 accessing that particular service in the State.

23 Q But does it give you the full picture, as  
24 you said earlier?

25 A The full picture of all services?

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1 Q Of service utilization and access across  
2 the system.

3 A I think it provides a good example, yes.

4 Q You said this document, one of its  
5 deficiencies is it does not give you the full  
6 picture, correct?

7 A This document, correct.

8 Q Right. I'm talking about Exhibit 16.

9 A Correct.

10 Q And if this document did give you the full  
11 picture, what would it look like?

12 A It would have the information on it that's  
13 in the Apex reporting.

14 Q Okay.

15 A Or the IC3 reporting, or the youth mental  
16 health clubhouse reporting.

17 Q Okay, thank you.

18 (WHEREUPON, Plaintiff's Exhibit-17 was  
19 marked for identification.)

20 THE WITNESS: Can I take a break?

21 MR. HOLKINS: This is a good time for  
22 that, yes.

23 THE VIDEOGRAPHER: Off the record at 4:19  
24 p.m.

25 (A recess was taken.)

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1 THE VIDEOGRAPHER: We're back on the  
2 record at 4:27 p.m.

3 BY MR. HOLKINS:

4 Q So, Mr. McKay, I think you were just  
5 handed what has been marked Exhibit 17.

6 MR. HOLKINS: I'll note for the record  
7 this is GA00157048.

8 BY MR. HOLKINS:

9 Q And it's a series of emails, some of which  
10 you are a recipient, from 2019. The subject of the  
11 email is Data Request from Javona Daniels on Mobile  
12 Crisis Dispatches to Schools.

13 Do you recall receiving this email?

14 A No.

15 Q Among the individuals on this chain is  
16 John W. Quesenberry, correct?

17 A Correct.

18 Q And that's the IT official that you  
19 referenced earlier?

20 A Correct.

21 Q Also on this email chain is Wendy Farmer.  
22 Do you know who Wendy Farmer is?

23 A Yes.

24 Q Who is she?

25 A She -- at the time she was one of the -- I

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1 don't remember her title exactly, but she was one of  
2 the leads for one of the vendors that made up The  
3 Georgia Collaborative ASO.

4 Q So on Page 2 of this document, and this is  
5 the email if Wendy Farmer to John Quesenberry, and  
6 others, a request is made for data on the number of  
7 mobile crisis dispatches to school by region for the  
8 last year.

9 Do you see that on Page 2 of the document?

10 A Yes.

11 Q In response, some figures are provided  
12 showing total dispatches by region from 01/01/2018  
13 to 12/31/2018, correct?

14 A Yes.

15 Q Do you know where this data came from?

16 A I do not.

17 Q Do you know if DBHDD currently tracks, for  
18 example, mobile crisis dispatches to schools by  
19 region?

20 A No, I don't. We currently track  
21 dispatches across the region -- regions. If school  
22 is still a data point, I don't know.

23 Q Okay. So if I understand correctly, you  
24 still have -- you do have data or track data on  
25 dispatches by region, but it's not particularized to

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1 school, as far as you know?

2 A Correct. The mobile crisis services that  
3 we have procured and I -- given this date, I'm not  
4 sure if the reprocurement happened prior to this  
5 date, but I think the data elements, there were some  
6 changes from -- prior to the reprocurement of the  
7 service.

8 Q So the changes in data collection followed  
9 the procurement shift?

10 A Yes.

11 Q And if you were to request data on mobile  
12 crisis dispatches by region for the last year, who  
13 would you ask for that?

14 A I would ask Beth Shaw.

15 Q Beth Shaw. Thank you.

16 A Correct.

17 Q And is that something that you have  
18 requested in the last year?

19 A I've requested -- I think that with the  
20 new procurement -- before there were reports that  
21 would be generated, electronic copies, there would  
22 be emails.

23 With the new procurement, I think we went  
24 to a system where the reporting is housed on an  
25 electronic database, password protected, and I have

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1 requested a login to that database within the last  
2 year, because I stopped receiving reports, and when  
3 I asked, where I could not find those, that is what  
4 was shared with me, but I do not have a login. I am  
5 still waiting on that.

6 Q When did you make that request for login  
7 information?

8 A Recently. I would say just maybe November  
9 or December of 2021, just prior to the holiday  
10 break.

11 (Discussion ensued off the record.)

12 Q Mr. McKay, are you able to -- or were you  
13 able to before this --

14 MR. HOLKINS: Let me change this approach  
15 here.

16 BY MR. HOLKINS:

17 Q Are you able to access reports showing  
18 service utilization by region for other services?

19 A Other than mobile crisis?

20 Q Other than mobile crisis response.

21 A I don't know. A type of report that I  
22 would request may be for number of admissions to a  
23 PRTF, psychiatric residential treatment facility,  
24 that DBHDD paid for, one of our covered lives, but  
25 it would not be by region.

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1           There are only a few of those in the  
2 state. Same for crisis stabilization units, there  
3 are only four that serve kids across the state.

4           I guess what I'm getting at, the data  
5 doesn't align regionally for some services in the  
6 same way it does for this mobile crisis report.

7           Q     So if I understand you correctly, for  
8 services where there are facilities only in specific  
9 regions, then a report by region obviously is not  
10 going to tell you as much as this report about  
11 mobile crisis services by region because that's a  
12 statewide service that's available in every region;  
13 is that right?

14          A     Correct, and how the information is  
15 tracked.

16          Q     Okay. But then for other services, like  
17 mobile crisis that is, at least in theory, available  
18 in every region, which is to say it's not connected  
19 to a specific facility, would you expect to be able  
20 to request reports that would show by region  
21 utilization?

22          A     Correct.

23          Q     Thank you.

24                I'd like to show you another document.

25                (WHEREUPON, Plaintiff's Exhibit-18 was

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1 marked for identification.)

2 BY MR. HOLKINS:

3 Q Mr. McKay, you've just been handed what  
4 has been marked Exhibit 18.

5 MR. HOLKINS: I'll note for the record  
6 this is GA00637089. It was produced by the  
7 State of Georgia to the United States in this  
8 matter.

9 BY MR. HOLKINS:

10 Q You can take a moment to review the  
11 document, Mr. McKay, and just let me know when  
12 you've finished.

13 (Witness reviews exhibit.)

14 A I've reviewed the document.

15 Q Thank you. Have you seen this document  
16 before, any version of it?

17 A I don't recall.

18 Q Based on the file name reported to us by  
19 the State, it appears to be a child metrics/matrix  
20 from 2019. Does that ring any bells for you?

21 A No. Some of the -- not for the document  
22 overall, but some of the metrics within the document  
23 would be some of those that we report for our mental  
24 health block grant that we discussed earlier, but I  
25 don't recall seeing this information in this format.

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1 Q Did your office produce anything like this  
2 tracking, or at least listing all of the CYA-related  
3 metrics across programs?

4 A Not that I recall.

5 Q You can set this aside.

6 (WHEREUPON, Plaintiff's Exhibit-19 was  
7 marked for identification.)

8 BY MR. HOLKINS:

9 Q Mr. McKay, you've just been handed what  
10 has been marked Exhibit 19.

11 MR. HOLKINS: I'll note for the record  
12 this is GA0174388.

13 BY MR. HOLKINS:

14 Q Please take a moment to review the  
15 document and let me know when you're finished.

16 (Witness reviews exhibit.)

17 A I've reviewed the document.

18 Q So this is an email exchange from 2016, in  
19 which you're both the sender and a recipient.

20 The title of the email is -- or, excuse  
21 me, the subject of the email is COE Data Sources.

22 First, let me ask, who is -- I apologize  
23 if I mispronounce this -- Ann DiGirolamo?

24 A She is the director of the Center of  
25 Excellence.

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1 Q Is she still in that role?

2 A She is.

3 Q Do you coordinate directly with her with  
4 respect to --

5 A From time to time. She is, for this  
6 contract, she is the point of contract and I serve  
7 as the point of contract -- point of contact for the  
8 contract.

9 Q So she is signing the contract for --  
10 MR. HOLKINS: Let me rephrase.

11 Q She's the point of contact for the COE for  
12 the contract with DBHDD, and you're the point of  
13 contact for DBHDD on that same contract?

14 A Correct.

15 Q So the email on Wednesday, October 19,  
16 2016 reads: "Per your request at last week's  
17 meeting, below is a list of data that the COE has  
18 access to."

19 And there are a series of bullets, all on  
20 the first page, identifying data that the COE has  
21 access to.

22 Is that accurate?

23 A That the exhibit reflects that?

24 Q Uh-huh.

25 A Yes, correct.

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1 Q So my question is -- and I know it's been  
2 a few years, this is from 2016 -- how has, if it has  
3 at all, the available -- the data that COE has  
4 access to evolved?

5 A So if we went bullet by bullet, like we  
6 did earlier, the second bullet would not apply as it  
7 relates to DBHDD Avatar.

8 And I'm not sure if the ASO-related bullet  
9 still applies.

10 Q Can I stop you real quick? What is DBHDD  
11 Avatar?

12 A I don't know exactly, but I think it is a  
13 -- it's a system that the agency uses but not my  
14 office.

15 So I could say that it's a system, but  
16 what it does and the information that it contains, I  
17 don't know.

18 Q Sorry. You can continue.

19 A The other -- so I'll just talk about the  
20 ones that may have changed.

21 Under the third bullet there's a bullet at  
22 reference Light - FEP. That is not a -- they don't  
23 track -- the COE doesn't track that from my office  
24 anymore.

25 Q What is Qualtrics?

1           A       It is a system that the COE uses for data  
2 collection and tracking.

3                   The last bullet on the first page, the  
4 longitudinal data for DJJ, we concluded that  
5 project. So they don't track that anymore.

6           Q       Is there any data that the COE has access  
7 to now not reflected on this list?

8           A       I don't know. The COE has contracts, to  
9 my understanding, with many other child serving  
10 agencies. I'm not sure if they have contracts with  
11 all, and the contracts they have in place, to what  
12 data they have access to.

13                   But for the purposes of the programs that  
14 we work with them on, it's helpful because of some  
15 of the other contracts they have in place to -- for  
16 us to track, you know, aggregate level outcomes for  
17 our program.

18           Q       Is it true that you're able to request or  
19 access all of the data that COE has access to that  
20 are specific to DBHDD services or programs?

21           A       I wouldn't say all. To a certain degree,  
22 there is some truth to that.

23                   In some cases, because of maybe some of  
24 the parameters contractually between, say, a COE and  
25 Medicaid, if DCH, Department of Community Health, if

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1 for some reason DCH felt some of the data was  
2 proprietary, we may not gain access to it, but that  
3 hasn't been an issue for -- it has come up in  
4 conversations in terms of proprietary maybe being a  
5 concern or a challenge, but it hasn't come into play  
6 for Apex, Clubhouse, IC3.

7 Q Have you ever made a request for data for  
8 CEO that has been denied because of concerns about  
9 proprietary information?

10 A Not that I'm aware of. It has been  
11 delayed for vetting but I don't recall an instance  
12 where it has been denied.

13 Q And how long does it take to --

14 A It varies.

15 Q I'm sorry.

16 -- to process a request for data?

17 A I'm sorry.

18 It varies.

19 Q What's the top end?

20 A It would be speculation.

21 For -- so we -- for our annual block grant  
22 reporting, some of those metrics are only available  
23 through DCH. So we make the request via the COE,  
24 that makes a request to their client contact at DCH,  
25 and that reporting is required annually, I think the

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1 1st of November. So we may make that request around  
2 August or September each year.

3 Typically, we have the information in time  
4 to submit to SAMHSA by 11/1. This year we did not.  
5 There was an internal data issue at DCH that  
6 prevented us from submitting some of those metrics  
7 on time.

8 So I guess that's a long way of saying a  
9 couple months on average, up until this past year.

10 Q I'd like to shift gears and talk more  
11 about Apex.

12 You can set that one aside.

13 (WHEREUPON, Plaintiff's Exhibit-20 was  
14 marked for identification.)

15 BY MR. HOLKINS:

16 Q You've just been handed what has been  
17 marked Exhibit 20.

18 MR. HOLKINS: For the record, this is  
19 GA00130192.

20 BY MR. HOLKINS:

21 Q Please take a moment to review the  
22 document and let me know when you've finished.

23 (Witness reviews exhibit.)

24 A I've reviewed the document.

25 Q This document sets forth the Apex

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1 community provider responsibilities and deliverables  
2 for FY21, correct?

3 A Correct.

4 Q And what was your role in developing this  
5 document, if any?

6 A I would have reviewed this document and  
7 provided -- suggested edits and final approval.

8 Q Is there a new version of this document  
9 for FY22?

10 A I'm not sure. It is updated annually for  
11 the state fiscal year. I don't recall if we made  
12 any edits or changes.

13 Sometimes updates may just be limited to a  
14 change in the academic year. So from '21 to '22.

15 Q Can you recall any substantive changes  
16 made to this document?

17 A I don't recall, no.

18 Q On Page 2, the first full paragraph in  
19 bold are the primary goals of the Apex, Georgia Apex  
20 program, which are: "1) Provide for early detection  
21 of children in adolescent mental health needs; 2)  
22 Increase access to mental health services for  
23 children and youth; and 3) Increase coordination  
24 between community mental health providers and their  
25 local schools and school districts."

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1 Are those still the three primary goals of  
2 the Georgia Apex program?

3 A Yes.

4 Q And following that, the next paragraph  
5 reads: "The hoped for result will include a  
6 reduction of children and youth in Georgia with  
7 unmet mental health needs, fewer discipline  
8 referrals, and increased academic performance among  
9 the children and youth who receive this school-based  
10 mental health service."

11 Is that text -- has your office made any  
12 changes to that paragraph?

13 A I don't recall.

14 Q Does this document describe the  
15 responsibilities that DBHDD has to Apex providers?

16 A Can you restate the question?

17 Q So I know this document describes the  
18 responsibilities for providers and provider  
19 deliverables for FY21. I'm curious as to whether it  
20 also defines DBHDD's responsibilities with respect  
21 to Apex providers?

22 A No.

23 Q Is there a document that does that?

24 A This would be an annex to a standard DBHDD  
25 contract that would lay all of that out.

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1 (WHEREUPON, Plaintiff's Exhibit-21 was  
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q Mr. McKay, you've just been handed what  
5 has been marked Exhibit 21.

6 MR. HOLKINS: For the record, this is  
7 GA01472050.

8 BY MR. HOLKINS:

9 Q At the top right-hand corner of the  
10 document it reads "DBHDD - Gateway Behavioral Health  
11 Services, FY2021 - Georgia Apex Project (GAP)."

12 Mr. McKay, is this an example of a  
13 standard contract between DBHDD and an Apex provider  
14 to which a copy of the provider responsibilities and  
15 deliverables would be attached?

16 A I'm not seeing where Apex is listed.

17 Q I direct you to the very top of the first  
18 page in the right corner.

19 A Okay. I see it.

20 And can you restate the question?

21 Q Oh, sure.

22 Would this be an example of a standard  
23 contract between DBHDD and an Apex provider to which  
24 a copy of the provider responsibilities and  
25 deliverables would be attached?

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1 A Yes.

2 Q And is this -- are these contracts  
3 standardized across all Apex providers?

4 A Yes.

5 Q Gateway Behavioral Health Services is a  
6 community service board, correct?

7 A Correct.

8 Q Does this document describe DBHDD's  
9 responsibilities with respect to Apex providers?

10 A I, I think it does, yes.

11 Q Can you point out where it does that?

12 A In each of the paragraphs it talks about  
13 -- so the first paragraph talks about this is a  
14 contract. So contractually binding between this  
15 organization and -- between Gateway and DBHDD.

16 It talks about the period of the contract  
17 in the second paragraph; lists information and  
18 points of contact; references our policy and  
19 provider manual; approved services and locations.

20 Should I continue?

21 Q No. That's good. Thank you.

22 Let's set aside the contract. I'd like to  
23 go back to the previous exhibit, which is Exhibit  
24 20, the provider responsibilities and deliverables,  
25 and specifically the text that we were reading

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1 earlier.

2 I'll read it again for the record.

3 "The hoped for result will include a  
4 reduction of children and youth in Georgia with  
5 unmet mental health needs, fewer discipline  
6 referrals, and increased academic performance among  
7 the children and youth who receive this school-based  
8 mental health service."

9 Has DBHDD set specific targets for the  
10 reduction of children and youth with unmet needs it  
11 hopes to achieve through the Apex program?

12 A Officially, no.

13 Q Are there unofficial targets?

14 A Yes. Unofficial target would be that this  
15 program is available in all public schools in the  
16 State of Georgia.

17 Q What do you think would be necessary to  
18 achieve that unofficial goal?

19 A It's a complicated answer. Factors would  
20 include funding, available workforce, available  
21 qualified workforce.

22 I'll stop right there. Just funding and  
23 available and qualified workforce to embed within  
24 those schools.

25 Q And by funding, are you specifically

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1 referencing to additional allocations of the State  
2 source dollars for the Apex program?

3 A Yes.

4 Q Do you have any sense of what amount of  
5 funding would be required?

6 A No.

7 MR. PICO PRATS: Objection.

8 Q Has there been any analysis -- has there  
9 been any analysis of the amount of funding that  
10 would be required to expand Apex to every public  
11 school in Georgia?

12 A No.

13 Q So please turn to Page 4 of Exhibit 20.  
14 First off, actually, let's go back one  
15 page. I apologize.

16 Page 3, No. 2, Deliverables.

17 Do you see where I am?

18 A Yes.

19 Q What are monthly progress reports?

20 A It is -- it is -- it is part of the  
21 monthly package of reports that we receive from the  
22 Center of Excellence. It will show by school the  
23 number of services provided in that particular  
24 month.

25 For example, it may say 20 students had 20

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1 sessions of individual counseling.

2 Q And how is, on the next page, the monthly  
3 programmatic report different from the monthly  
4 progress report?

5 A I don't know exactly. There are three --  
6 really, there are three -- three reports that I  
7 receive monthly for this program: One would be the  
8 schools with aggregate -- well, one would be the  
9 schools list; and then one would be this MPR, that's  
10 itemized according to the services; and then one  
11 would be aggregate level infographics.

12 And I believe that this information makes  
13 up the information that goes into the infographic by  
14 the time it comes to me.

15 Q By "this information," you're talking  
16 about the information under No. 3 on Page 4 of this  
17 document, correct?

18 A Correct.

19 Q And you receive those three reports every  
20 month; is that correct?

21 A Correct.

22 Q And the data that's -- the data in those  
23 reports is provided by Apex providers; is that  
24 correct?

25 A It's provided by -- it's provided by the

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1 Center of Excellence to me.

2 Q Okay. Where does the Center of Excellence  
3 get that data?

4 A From the providers, Apex providers.

5 Q I want to focus your attention on No. 3,  
6 on the bullet "Difference Made?" This is on Page 4  
7 of the document.

8 First, I'll read for the record the two  
9 sub-bullets: "Of the students served by Apex, what  
10 percent required a higher level of care such as  
11 short-term crisis stabilization, or extended  
12 residential treatment. Include a) monthly and b)  
13 aggregate totals."

14 Let's start with that one.

15 What was the thinking behind measuring  
16 Difference Made in this way?

17 A The Difference Made is a category that can  
18 be difficult to measure, and so you would pick a  
19 proxy to be able to measure in hopes of capturing  
20 outcomes.

21 So in this particular case, the thinking  
22 was that if you're intervening at the prevention  
23 tier or the at risk tier or providing regular  
24 services through the intensive tier, Tier 3, then  
25 there should be -- for those that enroll, there

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1 should bear out in any admissions to higher levels  
2 of care, which would be crisis stabilization or  
3 PRTF, psychiatric residential treatment facility.

4 Q And did you or someone else at OCYF make  
5 the determination to measure Difference Made in this  
6 way?

7 A I made this decision.

8 Q Does OCYF track the number of children  
9 served by Apex who are ultimately enrolled in GNETS?

10 A No.

11 Q Why not?

12 A We don't have that data. If -- again, if  
13 a GNETS program is listed on the monthly program, I  
14 would only know it's a GNETS program if it had GNETS  
15 in the title.

16 And so, to my knowledge, none of those  
17 schools reflect GNETS programs, so we wouldn't have  
18 that data.

19 Now, if it's a GNETS program embedded in  
20 the school or on the school campus, then my answer  
21 would change, but I wouldn't know if that was a  
22 GNETS student that had been served as a part of the  
23 Apex program.

24 Q Just to make sure I understand, and please  
25 do correct me if I misinterpret this, if 10 children

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1 who were being served by Apex were enrolled in GNETS  
2 at a standalone facility, you wouldn't have any data  
3 that would track that; is that correct?

4 A Correct.

5 MR. HOLKINS: So I actually want to take a  
6 brief pause because my colleague mentioned that  
7 she needed to run.

8 So let's take a five-minute break so she  
9 has the opportunity to do that.

10 MS. HUGHES: Thank you.

11 THE VIDEOGRAPHER: Off the record at 5:07  
12 p.m.

13 (A recess was taken.)

14 THE VIDEOGRAPHER: Back on the record at  
15 5:20 p.m.

16 BY MR. HOLKINS:

17 Q Mr. McKay, I'd like to present to you  
18 another exhibit.

19 (WHEREUPON, Plaintiff's Exhibit-22 was  
20 marked for identification.)

21 MR. HOLKINS: I'll note for the record  
22 this is GA01749707. It was produced by the  
23 State of Georgia to the United States in this  
24 matter.  
25

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1 BY MR. HOLKINS:

2 Q The title page after the cover page reads  
3 "The Georgia Apex Program Annual Evaluation Results,  
4 July 2019 - June 2020, Presented by the Center of  
5 Excellence for Children's Behavioral Health."

6 Mr. McKay, have you seen this document  
7 before?

8 A Yes.

9 Q Can you describe what it is?

10 A It's the annual evaluation of the program.  
11 After a full academic year, we will  
12 receive a written executive directory and a full  
13 slide deck a few months after the academic year has  
14 completed, and the Center of Excellence is able to  
15 compile and synthesize all of the data.

16 Q Do you have an opportunity to review and  
17 provide comment on this document before it's made  
18 public?

19 A I do.

20 Q Who else at OCYF contributes comments to  
21 this report before it's finalized?

22 A Layla Fitzgerald, Danielle Jones. To a  
23 smaller extent Dr. Stephanie Pearson.

24 Q So this is a bit unfortunate because this  
25 is not internally paginated. I was hoping to direct

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1 you to the slide that reports services, Tier 3  
2 services.

3 This is toward the middle of the  
4 presentation. It's a slide that reads: "Individual  
5 therapy for indicated students was the most  
6 frequently reported Tier 3, or intensive  
7 intervention activity."

8 MS. COHEN: Patrick, how many pages from  
9 the back? That might be the quickest.

10 MR. HOLKINS: It's quite a few.

11 Q Let's go ahead and step aside from the  
12 document here, and I'll just ask you what this  
13 document reflects about utilization of the IC3  
14 service through Apex providers? Do you recall?

15 A No. I'm not -- I don't know if this  
16 reports on IC3.

17 If it does, I don't -- I don't recall.  
18 They are two distinct programs.

19 Q Is IC3 available through Apex providers?

20 A IC3 is available to providers across the  
21 state, which would include Apex providers.

22 And so if it's referenced in here, the  
23 reference probably would be referrals made to IC3,  
24 Apex provider -- Apex enrolled youth referred to IC3  
25 services.

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1 Q For other services that are described in  
2 this presentation where -- it's not capturing  
3 actually services provided but rather referrals?

4 Does that make sense?

5 A Can you restate?

6 Q Yeah. So I think what you're telling me  
7 is that what this PowerPoint may capture for IC3 are  
8 referrals made for the service by Apex providers.  
9 Is that accurate?

10 A Correct.

11 Q Is that true for other services beyond  
12 IC3?

13 A Possibly. Like -- so specialty -- so I  
14 consider Apex a specialty program. IC3 is a  
15 specialty program. Youth Mental Clubhouses would  
16 also be a specialty program.

17 In instances where youth may benefit from  
18 out of school time, then there may be a referral  
19 from -- to like a clubhouse. So they may go from  
20 the school day Apex to a clubhouse for some period  
21 of time until their parents are home or guardian is  
22 home.

23 The same could be said for IC3.

24 Q Do you know if this PowerPoint includes  
25 any information about the number of students who

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1 transitioned out of GNETS enrollment into Apex?

2 A No. I don't recall, but I don't -- well,  
3 let me restate.

4 I don't recall seeing that or remembering  
5 seeing that in this PowerPoint.

6 Q Is that something, to your knowledge, that  
7 either the COE or DBHDD tracks?

8 MR. PICO PRATS: Objection.

9 A Not to my knowledge, that that exists or  
10 that we track it.

11 Q Just to make sure the record is clear,  
12 what I'm asking is whether or not DBHDD tracks the  
13 number of children who transition out of GNETS into  
14 Apex?

15 A No, we do not.

16 Q And do you know if the COE tracks that?

17 MR. PICO PRATS: Objection.

18 A I do not know that.

19 Q Set this aside.

20 Has the Center of Excellence published any  
21 other reporting in connection with the Apex program  
22 and/or results for July 2019 to 2020?

23 A Possibly.

24 Q You don't know?

25 A I said possibly.

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1 Q I'm sorry?

2 A Possibly.

3 Q And what could that reporting be?

4 A Well, the COE is an academic institution,  
5 and so they would submit for journals, scientific  
6 journals, learnings about the program. They would  
7 submit for posters at national school-based  
8 conferences.

9 Those two things come to mind. And so  
10 some of those submissions may include references or  
11 outcomes reported as a part of this program.

12 Q Does Commissioner Fitzgerald provide input  
13 to you directly regarding the Apex program?

14 A No, she does not.

15 Q Do you provide any information to  
16 Commissioner Fitzgerald regarding the Apex program?

17 A Ad hoc, when asked.

18 Q What kind of information do you provide  
19 when asked?

20 A It would be for an update. Maybe some  
21 information in the evaluation, like you need -- you  
22 served at a particular point in time or over the  
23 year. Or when the annual evaluations become  
24 available, I may share those with her.

25 Q How would you describe Commissioner

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1 Fitzgerald's responsibilities with respect to the  
2 Apex program?

3 A It would be similar to all programs that  
4 are sponsored or supported by DBHDD.

5 Q And what would be your responsibilities  
6 with respect to all programs under DBHDD?

7 A To lead the agency at an executive level;  
8 to have some general familiarity with the programs,  
9 how programs may be performing, funded by the  
10 agency; and have general familiarity with trends  
11 associated with programs and services supported by  
12 the agency.

13 Q Is Commissioner Fitzgerald involved in  
14 making funding decisions with respect to the Apex  
15 program?

16 A No.

17 Q Is Monica Johnson involved in those  
18 decisions?

19 A No. Not to my knowledge.

20 And I will clarify my previous answer  
21 about Commissioner. Not to my knowledge.

22 MS. COHEN: Do you need a break?

23 THE WITNESS: Just sitting here for a long  
24 time. No, I'm fine. We can continue.

25 MR. HOLKINS: I know it's been a long day

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1 and I really appreciate you bearing with us.

2 BY MR. HOLKINS:

3 Q I'd like to go back just really quickly to  
4 this exhibit, which is 22.

5 Why does DBHDD outsource to the Center of  
6 Excellence the production of this report?

7 A Because this is a specialty program, and  
8 the data -- the individualized -- the itemized data  
9 that we receive by contracting in this way is not  
10 available through -- internally from DBHDD.

11 Q Would DBHDD be able to produce by itself a  
12 report like this?

13 A I can't speak to that.

14 (WHEREUPON, Plaintiff's Exhibit-23 was  
15 marked for identification.)

16 BY MR. HOLKINS:

17 Q You've just been handed what's been marked  
18 Exhibit 23.

19 MR. HOLKINS: For the record, this is  
20 GA00655695.

21 The title of the document is "Apex Year  
22 End Survey 2019-2020."

23 BY MR. HOLKINS:

24 Q Mr. McKay, have you seen this document  
25 before?

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1 A I believe so. Some version of it.

2 Q And how does your office use the Apex year  
3 end survey?

4 A This is a survey that is administered by  
5 the Center of Excellence, that is used to help  
6 produce the annual reporting. The slide deck, the  
7 executive -- annual executive summary.

8 Q Did you have an opportunity to provide  
9 feedback on this report before it was used by the  
10 Center of Excellence?

11 A Can you clarify the question?

12 Q Sure. I'm curious as to whether or not  
13 the Center of Excellence consults with you with  
14 respect to this year end survey?

15 A Yes.

16 Q And what, what is your involvement with  
17 this year end survey?

18 A My team would review this before it goes  
19 out to see if any changes are needed for the year in  
20 terms of rewording of questions, adding questions,  
21 maybe removing questions based upon things learned  
22 over the course of the academic year.

23 It is finalized, it is released to  
24 providers, and the results are then included in the  
25 annual deck and the annual executive summary.

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1 (WHEREUPON, Plaintiff's Exhibit-24 was  
2 marked for identification.)

3 BY MR. HOLKINS:

4 Q Mr. McKay, you've just been handed what  
5 has been marked Exhibit 24.

6 MR. HOLKINS: For the record, this is  
7 GA00656683.

8 BY MR. HOLKINS:

9 Q Please take a moment to review the  
10 document and let me know when you've finished.

11 (Witness reviews exhibit.)

12 A I've reviewed the document.

13 Q Thank you.

14 Can you turn to Page 3 of the document. I  
15 want to direct your attention to entry No. 8, "DOE  
16 data sharing - potential protocol."

17 Do you see that?

18 A Yes.

19 Q Are you familiar with this DOE data  
20 sharing protocol?

21 A I'm familiar with reference to it, but it  
22 does not exist.

23 Q And what was being contemplated at this  
24 point?

25 A The way that we receive information

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1 currently on the program, providers provided to the  
2 COE, so it's self-reported.

3 We have inquired, explored ways for it to  
4 be automated, I guess is the best word, where the  
5 COE would have direct access to DOE database,  
6 metrics elements to be determined.

7 My recollection of that is that it has  
8 stalled along the way. We haven't been able to  
9 complete that task.

10 Q Is the task still active or has it been  
11 abandoned?

12 A I don't know the status of it currently.

13 MS. COHEN: This would be through COE?

14 A To be determined. It could be an arranged  
15 -- it could have been an arrangement that we  
16 discussed with COE and DOE, or a combination of  
17 DBHDD, COE and DOE.

18 Q And what kind of data would this  
19 arrangement have allowed COE to access through the  
20 Georgia Department of Education?

21 A I don't --

22 MR. PICO PRATS: Objection.

23 A -- recall specifically. But it would have  
24 been -- I think it would have been aggregated --  
25 aggregate level. There may have been some

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1 discussions about unidentified, if that's the right  
2 word, information.

3 There have been several versions of this  
4 and so those versions have been, can we do this?  
5 And if we can, how would it work?

6 Considering HIPAA and FERPA  
7 considerations. And as I started with, it has  
8 stalled.

9 I think most recently there was a meeting  
10 on this some time last fall. I don't know the  
11 status of those talks.

12 Q I understand. What need is this protocol  
13 attempting to fill?

14 A I would say vetting of the data because  
15 right now the difference would be -- the data that  
16 we have is self-reported by the providers, about  
17 their experiences within schools, versus the data  
18 coming through official school collection practices.

19 I think it's a way to -- one of the  
20 considerations was to be able to have kind of a  
21 balance for the self-reported data and compare it to  
22 what is reported through official DOE mechanisms.

23 Q Just to be clear, this exhibit that you're  
24 looking at now, which is Exhibit 24, these are  
25 essentially updates from a regular meeting that you

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1 have with the COE regarding Apex? Is that accurate?

2 A Yes. This looks like notes from a -- just  
3 a standing meeting.

4 Q Is this a monthly meeting?

5 A There are a few different meetings. I'm  
6 not sure -- most are monthly. There may be three  
7 meetings. I participate as my schedule allows.

8 And to clarify, as I mentioned earlier,  
9 there's a meeting with just DBHDD and the COE, and  
10 there's a meeting that DOE participates in, and I  
11 don't know which meeting this is according to these  
12 notes.

13 (WHEREUPON, Plaintiff's Exhibit-25 was  
14 marked for identification.)

15 BY MR. HOLKINS:

16 Q Mr. McKay, you've just been handed what  
17 has been marked Exhibit 25.

18 MR. HOLKINS: For the record, this is  
19 GA00003148.

20 BY MR. HOLKINS:

21 Q Please take a moment to review the  
22 document and let me know when you've finished.

23 (Witness reviews exhibit.)

24 A I've reviewed the document.

25 Q Thank you. This is an email exchange

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1 between Commissioner Fitzgerald and Garry McGiboney,  
2 from 2019.

3 First, let me ask you, do you know who  
4 Garry McGiboney is?

5 A I do.

6 Q At the time of this email, he's identified  
7 as a deputy superintendent of -- bless you.

8 Are you okay?

9 A Yes.

10 Q So, Doctor, this is -- Dr. McGiboney is  
11 identified in this email as an employee of the  
12 Georgia Department of Education.

13 Do you know if he's still employed at the  
14 Georgia Department of Education?

15 A I do, and he is not.

16 Q I'd like to direct you to Mr. McGiboney's  
17 email to Commissioner Fitzgerald, dated February  
18 12th, 2019, and specifically the line in this email  
19 where he, he says: "We have heard APEX counselors  
20 say the same thing - that their work is more  
21 effective in PBIS schools because the school climate  
22 endorses a system of care within the school."

23 Do you see that text?

24 A Yes.

25 Q What is PBIS? Do you know what that

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1 stands for?

2 A Positive behavioral interventions and  
3 supports.

4 Q Is this statement consistent with your  
5 observation and experience?

6 MR. PICO PRATS: Objection.

7 MR. HOLKINS: I'll rephrase.

8 BY MR. HOLKINS:

9 Q In your experience and in your opinion, is  
10 the Apex program most effective in PBIS schools?

11 MR. PICO PRATS: Objection again.

12 A We have heard that it is.

13 This -- PBIS leads to the multitiered  
14 systems and supports that I mentioned earlier. It  
15 is when -- and I'm a layman in understanding it, but  
16 the concepts are PBIS is all about school climate.  
17 When -- and schools are not -- State DOE cannot  
18 mandate schools to be PBIS implemented schools.  
19 They have to voluntarily adopt it.

20 So for the schools that have PBIS in place  
21 and Apex in place, those schools, from a trend  
22 standpoint, annually tend to have better outcomes  
23 than the ones that do not have PBIS and maybe have  
24 an Apex program, or no school-based mental health  
25 program.

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1 Q And what kind of outcomes are you  
2 referring to where this trend would be apparent?

3 A Attendance, higher rates of attendance,  
4 lower rates of disciplinary referrals or suspension,  
5 expulsions, that sort of thing.

6 Q Would fewer referrals to higher levels of  
7 care also be an outcome where you would expect PBIS  
8 schools to perform better?

9 A I don't know the answer to that specific  
10 question.

11 (WHEREUPON, Plaintiff's Exhibit-26 was  
12 marked for identification.)

13 BY MR. HOLKINS:

14 Q Mr. McKay, you've just been handed what's  
15 been marked GA 0 -- excuse me. What's been marked  
16 Exhibit 26.

17 MR. HOLKINS: And, for the record, this is  
18 GA00672136. The title of the document is "Apex  
19 COE/DBHDD Team Meeting 6.9.20."

20 BY MR. HOLKINS:

21 Q Mr. McKay, is this another summary of one  
22 of the meetings we were just talking about between  
23 DBHDD and COE with respect to Apex?

24 A It appears to be, yes.

25 Q I want to direct your attention to Item

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1 No. 5, which describes "School/Provider  
2 Relations/Politics: that are barriers to  
3 implementing the model."

4 Do you see that text?

5 A I do.

6 Q Do you think there are political barriers  
7 to expanding the Apex model?

8 A Can you restate the question?

9 Q I'm curious to get your thoughts about  
10 whether there are, as this summary might suggest,  
11 political obstacles to implementing the Apex model?

12 A I don't know what this is in reference to.

13 Q Did you participate in this meeting on  
14 6/9/20 between COE and DBHDD with respect to Apex?

15 A I don't remember if I was present in this  
16 meeting.

17 Q Regardless of whether you recall  
18 participating in this meeting, do you believe there  
19 are political obstacles to expanding the Apex model?

20 MR. PICO PRATS: Objection.

21 A I can't speak to it.

22 I do know when there is a -- when there's  
23 support from a superintendent or deputy  
24 superintendent or director of school services, when  
25 there's support from a principal, when there's a

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1 champion that's involved, the programs tend to do  
2 better and thrive.

3 The referrals are being made. The  
4 students are enrolled in services.

5 Over time, it took us a while to get  
6 there. There are cases where there was not a school  
7 champion, and there may not have been referrals  
8 being made.

9 And so I can't speak to the politics or  
10 this specific statement, but I would attribute  
11 what's described here as to some of those relational  
12 things that can facilitate a productive program or  
13 hinder a potential program.

14 Q Have you encountered school  
15 superintendents who are not interested in the Apex  
16 program?

17 A I have not had much interaction with the  
18 school superintendents, outside of the procurement  
19 process and reading a letter of support asking for  
20 funding for the provider to bring that program to  
21 their district or to increase schools supported by  
22 that funding within their district.

23 Q Are you aware of any resistance at the  
24 school district level anywhere in the State to the  
25 implementation of Apex?

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1 A I can't speak to that.

2 Q Is it because you're not aware?

3 A I hear things but I have not received any  
4 direct communication from a superintendent or school  
5 district.

6 Q And what have you heard?

7 A I don't want to speculate because I don't  
8 know if it's true or not.

9 Q What information did you receive regarding  
10 potential opposition to Apex implementation in those  
11 conversations?

12 MR. PICO PRATS: Objection.

13 A I have heard, and I don't recall  
14 specifically who said it, but there are -- there's a  
15 stigma associated with receiving behavioral health  
16 services, and some of that is generational.

17 But I have heard that some school  
18 leadership, school district leadership, has stated  
19 that they didn't need services because their  
20 students didn't have those problems.

21 I cannot state if that was exactly made or  
22 a true statement. It was not said directly to me,  
23 and I don't recall -- it may have been a group  
24 setting where people were gossiping and that  
25 statement was made.

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1 Q Does your staff conduct outreach to school  
2 districts separate and apart from receiving  
3 applications to enroll in the Apex program?

4 A My direct staff may participate in  
5 meetings with school districts, especially given  
6 their more recent roles.

7 Layla Fitzgerald is a liaison. As I  
8 mentioned earlier, she splits her time between my  
9 office and the DOE office, the home child supports,  
10 and Danielle Jones splits her time between a  
11 specific SAMHSA funded grant called Project Aware  
12 that focuses on three county -- three school  
13 districts in Georgia.

14 Q Who leads those meetings with the school  
15 districts? Is it your staff, COE, or someone else?

16 A I can't speak to that.

17 Q And could you describe, since we were  
18 talking about this again, Layla Fitzgerald's  
19 responsibilities to DOE in her role as behavioral  
20 health liaison?

21 A I don't remember the specifics. It's  
22 outlined in an MOU between the agencies, but to  
23 summarize, it is for learnings, information sharing,  
24 coordination, planning.

25 Q And when was that MOU implemented?

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1           A       I think she started in September,  
2       September 1st of 2020.

3           Q       And has that role, her serving in that  
4       role, yielded, from your perspective, any changes in  
5       coordination between your office and DOE?

6                   MR. PICO PRATS: Objection.

7           A       I'm more informed in terms of the  
8       initiatives that they're planning internally and  
9       considering.

10                   Through that coordination, when schools  
11       shut down as a part of the pandemic, the Governor  
12       and state superintendent created a task force, and I  
13       was appointed to one of those task forces, whose  
14       goal was to meet, develop recommendations for safely  
15       reopening schools.

16                   I think that appointment was yielded by  
17       way of a working relationship that we were  
18       continuing to build with DOE.

19           Q       Does that coordination between DOE and  
20       your office through this behavioral health liaison  
21       role relate to the GNETS program?

22           A       No.

23                   (WHEREUPON, Plaintiff's Exhibit-27 was  
24       marked for identification.)  
25

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1 BY MR. HOLKINS:

2 Q Mr. McKay, you've just been handed what's  
3 been marked Exhibit 27.

4 MR. HOLKINS: I'll note for the record  
5 this is GA00150195. It was produced by the  
6 State of Georgia to the United States in this  
7 matter.

8 BY MR. HOLKINS:

9 Q This is an email chain in which you  
10 participated from 2020. The title is, or the  
11 subject is Apex Schools' List.

12 I want to direct you to your email on  
13 August 20, 2020, on the first page, where you write:  
14 "There are two lawsuits pending against the State  
15 regarding GNETS. Your agency may be impacted. Just  
16 wanted to make sure you are aware of the reason for  
17 the call."

18 First, just let me ask, who is Samantha  
19 Boatwright, who is a recipient on that email?

20 A She is a point of contact at one of the  
21 provider organizations.

22 Q Which organization?

23 A The Georgia Pines Community Service Board,  
24 Georgia Pines, and it appears that she is -- at the  
25 time was the Georgia Apex program coordinator.

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1 Q What did you mean when you wrote that her  
2 agency may be impacted by the lawsuits pending  
3 against the state regarding GNETS?

4 A I don't remember exactly.

5 Q Do you believe that Apex providers may be  
6 impacted by the pending lawsuits against the State  
7 regarding GNETS?

8 MR. PICO PRATS: Objection.

9 A Can you restate the question?

10 Q Do you believe that Apex providers will be  
11 impacted by the pending lawsuit against the State  
12 regarding GNETS?

13 MR. PICO PRATS: Same objection.

14 A Impacted in that my thinking probably at  
15 the time is from something I saw, is that that  
16 provider may be called to testify.

17 Q Is there any other impact that you think  
18 that this lawsuit may have on Apex providers?

19 A No, none that I'm aware of.

20 Q Okay.

21 MR. HOLKINS: This one should be fairly  
22 quick.

23 (WHEREUPON, Plaintiff's Exhibit-28 was  
24 marked for identification.)  
25

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1 BY MR. HOLKINS:

2 Q You've just been handed what has been  
3 marked Exhibit 28.

4 MR. HOLKINS: For the record, this is  
5 GA00250659.

6 BY MR. HOLKINS:

7 Q At the top of the document is the title:  
8 "Question: 40% Productivity - How will this be  
9 implemented? How much does each Apex contract  
10 receive in total?"

11 Have you seen this document before or some  
12 version of it?

13 A I believe so.

14 Q We were talking a while earlier about  
15 reductions in budgets impacted Apex providers. Does  
16 this document capture the final reductions that were  
17 made for Apex providers for FY21?

18 A I don't remember the final amount.

19 Q Where would that -- where would those  
20 final amounts be reflected, in what document?

21 A I think that would be a question for our  
22 budget office.

23 Q Did you have any role in making the  
24 recommendation, the specific budget recommendations  
25 for each of the Apex providers on this list?

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1           A       I contributed to across the board  
2 suggestions.

3           Q       And what were the factors you were  
4 considering when making those recommendations and  
5 suggestions?

6           A       Looking at the entire program and  
7 participating as one of many offices, and  
8 prioritizing, there were a lot of discussions going  
9 on and a lot of numbers being thrown around in terms  
10 of where to cut. Things were put on the table,  
11 thing were taken off the table.

12                   This 40 percent reduction -- there's an  
13 element to -- there's a billing element to Apex.  
14 The best practices nationally that we adopted and  
15 implemented says that if the funding for the program  
16 was cut, it supports portions of salary and portions  
17 of administrative costs. It covers the Tier 1,  
18 because those services are not billable in any form.  
19 Tier 2 are -- some -- those services are billable.

20                   And so we were determining calculations of  
21 where -- how could we cut funding and increase the  
22 productivity requirements but not totally lose the  
23 program. Would it be able to sustain and in what  
24 form given the budget reduction mandate.

25                   Apex is a service that has a billable

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1 component that other programs didn't necessarily  
2 have.

3 Q And just to make sure I understand, the  
4 billable component is a expectation that Apex  
5 providers are going to bill a third-party provider  
6 source for a certain amount of the services they  
7 provide?

8 A For the sustainability of the program,  
9 yes.

10 Q And what is the benchmark that is set by  
11 DBHDD?

12 A Is it not set by us. National best  
13 practices suggests that if a program is able to  
14 cover around a 60 percent threshold, then that  
15 position becomes self-sustainable, which then would  
16 free up dollars to reinvest in other additional --  
17 bring on additional staff or adding additional  
18 schools, that sort of thing.

19 And so at 40 percent, not remembering  
20 exactly the discussion, that would have given us a  
21 window of somewhere between 40 percent and 60  
22 percent.

23 Q And do you have a sense of how many  
24 existing Apex providers are meeting or exceeding  
25 that 60 percent threshold currently?

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1 A Not off the top of my head, no.

2 Q Where would you go for that information?

3 A It is tracked in monthly expenditure  
4 reports that are submitted to my program team, and I  
5 think also our budget office has access to that.

6 Q I'd like to shift gears. We're kind of in  
7 our last stretch here, so we're close.

8 (WHEREUPON, Plaintiff's Exhibit-29 was  
9 marked for identification.)

10 BY MR. HOLKINS:

11 Q You've just been handed what's been marked  
12 Exhibit 29.

13 MR. HOLKINS: For the record, this is  
14 GA00581815.

15 BY MR. HOLKINS:

16 Q Please take a moment to review the  
17 document.

18 (Witness reviews exhibit.)

19 A I reviewed the document.

20 Q Thank you very much.

21 So this is an email exchange between you  
22 and Nakeba Rahming, I believe it's pronounced, from  
23 2016.

24 At the time of this exchange, do you know  
25 what Nakeba Rahming -- what her role was?

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1           A     According to this document, it says  
2 program manager. That aligns with my recollection.  
3 Program manager of the GNETS statewide.

4                     Statewide program manager of the GNETS  
5 program.

6           Q     Okay. That's reflected on Page 2 of the  
7 document in her email from May 26, 2016, correct?

8           A     Correct.

9           Q     How would you describe the role of program  
10 manager for GNETS?

11          A     To provide -- or at least my experience,  
12 to look for and provide training opportunities for  
13 staff of the network; to, I guess, advocate for an  
14 increased budget for GNETS program, or protect the  
15 existing budget, advocate for the protection of the  
16 existing budget.

17                     I'll pause right there.

18                     So I will say training, funding.

19          Q     Just to be clear, this is a role within  
20 the Georgia Department of Education, correct?

21          A     Correct.

22          Q     Does the GNETS program manager have the  
23 ability to make or implement policy decisions with  
24 respect to the GNETS program?

25          A     I don't know.

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1 MR. PICO PRATS: Objection.

2 Q I'm sorry? You can answer.

3 MR. PICO PRATS: You can answer.

4 A I don't know.

5 Q I first want to stick with Ms. Rahming's  
6 email on May 26, 2016, where she writes: "I am  
7 working on a trauma informed care service delivery  
8 model for GNETS. I wanted do know if DBHDD has been  
9 doing any work in this area and if so can we  
10 collaborate on things related to it."

11 What's your understanding of a trauma  
12 informed service -- excuse me -- a trauma informed  
13 care service delivery model?

14 A I'm generally familiar with the concept  
15 behind the programming. It is -- it's consistent  
16 with resiliency -- resiliency and recovery program  
17 in terms of not asking recipients what's wrong with  
18 you, but what happened to you, to try to get at the  
19 trauma that is driving whatever the behaviors are.

20 Q And since this email in 2016, has DBHDD  
21 provided any guidance, training, assistance, to the  
22 GNETS program in implementing a trauma informed care  
23 service delivery model?

24 A Not that I'm aware of.

25 Q I'd like to go to the first email in the

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1 chain. Well, at least really the last email. The  
2 first email appearing on the document, which is on  
3 Page 1, is your email from May 27, 2016, to Nakeba  
4 Rahming.

5 First off, I recognize this, if I'm not  
6 mistaken, is a few months after you joined OCYF; is  
7 that correct?

8 A That's correct.

9 Q You write in the second paragraph:  
10 "Honestly, I know very little about GNETS."

11 Do you see that text?

12 A Yes.

13 Q Do you feel like now, years later, you  
14 know much more about GNETS than you did then?

15 A I do not.

16 So I know more than I did then, but I  
17 don't know much more, to use your language.

18 Q You view it as outside of the scope of  
19 your work or responsibility to know more about  
20 GNETS?

21 A Please repeat the question.

22 Q Do you think it is outside the scope of  
23 your role to know more about GNETS?

24 A I would say no.

25 Q It is within the scope of your work or

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1 it's not? I'm sorry.

2 A I actually have general familiarity with  
3 GNETS program.

4 I think that I do, along with many other  
5 programs offered by, you know, the child service  
6 agencies.

7 Q And what do you mean by general  
8 familiarity?

9 A There are, there are a number of child  
10 serving state agencies, and a number of them have  
11 programs. Some I'm more familiar with than others,  
12 but as a part of my scope of responsibility I think  
13 it's helpful to have some context about programs  
14 offered by child service agencies across the state.

15 I wouldn't have the wherewithal, the  
16 bandwidth to have -- you know, be extensively  
17 familiar with everything.

18 Q Do you view it as within the scope of your  
19 responsibility to know what behavioral health  
20 services are provided to GNETS students?

21 A I do not.

22 Q Do you view it as within the scope of your  
23 responsibility to know whether Apex services are  
24 effectively diverting children from placement in  
25 GNETS?

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1 MR. PICO PRATS: Objection.

2 A Restate the question.

3 Q Do you think it's within the scope of your  
4 responsibility in your current role to know whether  
5 Apex services are effectively diverting children  
6 from placement in GNETS?

7 MR. PICO PRATS: Same objection.

8 A I'm not sure, honestly.

9 It would depend on if GNETS is rated as a  
10 Tier 3 level of care within the tier, and if a  
11 student that was in those other tiers receive  
12 services upon -- under Apex, and that helps to  
13 stabilize those behaviors that would prevent them  
14 going to that next tier, if that was GNETS Tier 3,  
15 then, yes, I could see an application there.

16 And if there was a GNETS program within an  
17 Apex school and one of the students, GNETS students  
18 was enrolled in the Apex program and they were in  
19 Tier 3, but by way of receiving those services they  
20 didn't go on to a CSU, or PRTF, I can see an  
21 application there, but it's not a straight answer I  
22 think in the way that you asked the question.

23 One additional point. It wouldn't be -- I  
24 wouldn't -- I don't think we would ask the question  
25 about GNETS specifically. It would remain anchored

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1 to the tier model. So Tier 1, Tier 2, Tier 3.

2 Q Have you made any assessment or formed any  
3 opinion as to whether or not GNETS is effectively a  
4 Tier 3 provider in the Apex model?

5 MR. PICO PRATS: Objection.

6 A I have not.

7 Q With apologies for belaboring this point,  
8 I want to try once more, if that's all right.

9 So under what circumstances would you view  
10 it as within the scope of your responsibility to  
11 know whether Apex was helping children avoid  
12 placement in a GNETS facility?

13 MR. PICO PRATS: Objection.

14 A Please restate the question.

15 Q Under what circumstances would you view it  
16 as within the scope of your responsibility to know  
17 whether Apex was helping children avoid placement in  
18 a GNETS facility?

19 MR. PICO PRATS: Same objection.

20 A I'm not sure I know how to answer that  
21 question.

22 It would remain Tier 2, the levels of  
23 care.

24 In the applicability in this case to GNETS  
25 is because it's school-related programming, and Apex

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1 is a school-based program, meaning we fund to place  
2 providers inside a school setting.

3 We don't -- we spend a lot of time focused  
4 on the programs that we are supporting with DBHDD  
5 funding. We may have -- we may come in contact or  
6 have some awareness of other programs offered, but  
7 we don't, we don't spend a lot of time -- I  
8 personally don't spend a lot of time -- I don't have  
9 enough time in the day -- to familiarize myself with  
10 the number of programs being offered throughout the  
11 State.

12 The reason I'm familiar with Apex is  
13 because of the tier model. And so we rank anchor to  
14 the tiers, Tier 1, Tier 2, Tier 3.

15 Q Does your staff provide any training  
16 directly to GNETS facilities?

17 A One staff member -- so let me back up.

18 A couple years back, when Nakeba was still  
19 in place -- I think one of the emails referenced  
20 it -- she invited me to come to one of their  
21 statewide trainings. I went and I provided  
22 PowerPoint presentation on services that the office,  
23 DBHDD, my office, support.

24 More recently, within the last two years  
25 or so, my staff member Tricia Mills made a

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1 presentation remotely on IC3 to the network.

2 Those are the only two instances that I  
3 remember and am aware of.

4 (Whereupon, Plaintiff's Exhibit-30 was  
5 marked for identification.)

6 BY MR. HOLKINS:

7 Q You've just been handed what's been marked  
8 Exhibit 30.

9 MR. HOLKINS: For the record, this is  
10 GA01749504.

11 BY MR. HOLKINS:

12 Q I want to just direct you to Page 3 of the  
13 document, the title page for the presentation, which  
14 identifies "Trisha Mills, MA, CADC II, GNETS  
15 Director Meeting, October 22, 2019."

16 And above that, "Intensive Customized Care  
17 Coordination - IC3."

18 Is this the presentation you were  
19 referencing?

20 A Yes.

21 MR. HOLKINS: Let's take a few minute  
22 break then it will just be one last I think  
23 short round of questions and we'll be done.

24 Thank you.

25 THE VIDEOGRAPHER: Off the record at 6:23

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1 p.m.

2 (A recess was taken.)

3 THE VIDEOGRAPHER: Back on the record at

4 6:29 p.m.

5 BY MR. HOLKINS:

6 Q Mr. McKay, we spoke a little bit back  
7 about PBIS. I just have one follow-up question for  
8 you, which is, can, to your knowledge, the  
9 Department of Education -- the Georgia Department of  
10 Education mandate its schools implement PBIS?

11 A To my understanding, they cannot.

12 Q Why not?

13 A To my understanding, school districts have  
14 local control.

15 (WHEREUPON, Plaintiff's Exhibit-31 was  
16 marked for identification.)

17 BY MR. HOLKINS:

18 Q Mr. McKay, you've just been handed what's  
19 been marked Exhibit 31.

20 MR. HOLKINS: For the record, this is  
21 GA00129622.

22 BY MR. HOLKINS:

23 Q Please take a moment to familiarize  
24 yourself with the document and let me know when  
25 you're finished.

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1 (Witness reviews exhibit.)

2 A I've reviewed the document.

3 Q Thank you. This is an email exchange  
4 involving yourself, Danielle Jones, and Layla  
5 Fitzgerald, from 2020.

6 I first want to ask you about the subject  
7 line: MHTTC Info.

8 What does MHTTC stand for?

9 A I don't recall exactly. The first two  
10 letters are Mental Health.

11 It is -- but I can share what it is. I  
12 don't remember exactly what it stands for.

13 Around this time -- SAMHSA over the years  
14 has funded various technical assistance  
15 initiatives -- TA, technical assistance  
16 initiatives -- and the most recent iteration of  
17 their TA nationally they created particular centers,  
18 standard core system centers.

19 And the MHTCC focuses on school health,  
20 school health and school-based health.

21 This was in a -- I think this relates to  
22 an event, a SAMHSA event, that we were asked to  
23 participate in that was being hosted locally here in  
24 the State of Georgia.

25 Q And you where being asked -- looking to

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1 Layla Fitzgerald's email, starting on Page 3, from  
2 January 29, 2020, if I'm not mistaken, you were  
3 being asked to provide a five to seven minute  
4 presentation with an update on System of Care work;  
5 is that correct?

6 A I can't say with certainty. According to  
7 this chain, it looks like that.

8 Q I want to direct your attention to the  
9 text on the final page of the email, under "Original  
10 Goals - October 9, 2019 (original site visit date)."

11 Could you describe what these goals are?

12 A I don't remember where these goals came  
13 from.

14 Q Was it in connection with your work on  
15 implementing the System of Care framework?

16 A I think there's some relation, but I don't  
17 think we were the driver of these.

18 They look somewhat familiar, but I'm not  
19 exactly sure where they were generated.

20 Possibility could be -- so, again, this  
21 was SAMHSA driven lay of work, and I believe there  
22 was an opportunity for DBHDD to participate formally  
23 in a SAMHSA initiative related to school-based  
24 health, but we didn't have the bandwidth.

25 At the same time, SAMHSA had reached out

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1 to the Department of Education, but because of our  
2 regular communication SAMHSA had not told either of  
3 us they had reached out to the various agencies. We  
4 said, hey, SAMHSA has reached out. We don't have  
5 the bandwidth to do this. Have you thought about  
6 this?

7 And DOE said, oh, they reached out to us,  
8 too, we don't want to miss out on this opportunity,  
9 we're challenged.

10 So we agreed to follow DOE's lead to  
11 provide support, and then whatever that  
12 documentation was, they have been generated as a  
13 part of this.

14 But I don't think this is Apex specific or  
15 System of Care specific, just a reference to System  
16 of Care.

17 Q Specifically, Goal No. 2: "The State of  
18 Georgia will develop a comprehensive data sharing  
19 agreement to ensure appropriate evaluation of mental  
20 health services in schools."

21 Is there any active effort to do that?

22 A It is that similar conversation. I think  
23 this aligns with that similar conversation that we  
24 had specific to Apex in terms of creating an  
25 automated opportunity for data sharing.

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1 Q With DOE, correct?

2 A Yes.

3 Q Which is stalled, if I'm not mistaken,  
4 correct?

5 A Correct.

6 Q Are you able to describe the status, if  
7 relevant, of the first goal, "The State of Georgia  
8 will gain information regarding gaps in service and  
9 will identify steps to fill gaps"?

10 A I'm not.

11 Honestly, when this meeting occurred, I  
12 had been it out of the office working but out of the  
13 office physically because I had broken my foot, and  
14 there were some questions as to if I would be able  
15 to physically attend this meeting.

16 There have been a number of meetings over  
17 the years. I have participated early on as my  
18 schedule would allow, but I haven't participated in  
19 quite a while. And I don't remember any references  
20 by the team, Layla or Danielle specifically, to the  
21 MHTTC work.

22 Q Are you familiar with Clara Keith?

23 A I know the name.

24 Q Who is Clara Keith?

25 A She was somebody that had an office at

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1 DBHDD, that I met a couple of times.

2 Q What was her -- I'm sorry. Go ahead.

3 A Go ahead.

4 Q What was her role at DBHDD at the time?

5 A I think it was GNETS related but I don't  
6 know specifically.

7 Q What was the extent of your coordination  
8 with Ms. Keith when she was in that role?

9 A Early on, when the standing DBHDD GNETS  
10 leadership meetings occurred, Clara was present in  
11 those meetings. You know, many years ago when I  
12 first started participating.

13 But over time -- maybe she participated in  
14 two meetings that I participated in, but then I  
15 didn't see her again after that, and I haven't seen  
16 her for many years.

17 Q Is there another individual in that role  
18 now in DBHDD?

19 A Not that I'm aware of.

20 Q Just a few more questions and we're going  
21 to be done. You can set that aside.

22 Mr. McKay, without revealing any  
23 information you may have shared with your counsel, I  
24 would like to ask about your preposition -- your  
25 preparation for this deposition.

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1                   What did you do to prepare for this  
2 deposition?

3           A       Okay. Our Legal Department would pass  
4 along the interrogatories, I guess a request for  
5 production, any statements that I needed to -- any  
6 attestations that I needed to sign.

7                   I would review those, answer what I could,  
8 but mostly depending upon the Center of Excellence  
9 to answer the questions.

10          Q       I'm sorry. What questions did you depend  
11 on the Center of Excellence to answer?

12          A       I don't remember specifically, but the  
13 ones that they would have had information that they  
14 would be responsive to those questions.

15          Q       And this is in regards to responding to  
16 the United States interrogatories; is that correct?

17          A       Correct. So if a question asked what  
18 schools, whatever, something like that, I would say  
19 DOE, can you provide the school list from this time  
20 period to this time period.

21          Q       Did you independently verify the  
22 information that the COE provided to you in  
23 responding to interrogatories?

24          A       I, I -- it was uploaded to a particular  
25 location. I did not verify what was uploaded to

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1 that particular location.

2 Q And in preparing for this specific  
3 deposition, not responding to interrogatories but  
4 preparing for this deposition, did you review any  
5 documents?

6 A I reviewed the document that said I needed  
7 to be here today.

8 Q Anything else?

9 A No.

10 Q Did you meet with counsel?

11 A Yes.

12 Q Who specifically did you meet with?

13 A With Javier.

14 Q In preparing for this deposition, did you  
15 discuss your testimony with anyone other than your  
16 counsel?

17 A Not my prepared testimony, no. Other than  
18 to tell people that I would not be available today  
19 because I would be participating in a deposition.

20 MR. HOLKINS: Mr. McKay, I want to thank  
21 you for your time and for your patience, and  
22 it's been many hours. We are grateful for your  
23 time and I know you've got many things to do.

24 So we appreciate it. Have a good evening.

25 THE WITNESS: Thank you. Nice to meet

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1 you.

2 MR. HOLKINS: Thank you.

3 THE VIDEOGRAPHER: We're off the record at  
4 6:40 p.m.

5 (Whereupon, the deposition concluded at  
6 6:40 p.m.)

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C E R T I F I C A T E

STATE OF GEORGIA:

FULTON COUNTY:

I hereby certify that the foregoing transcript of DANTE T. McKAY was taken down, as stated in the caption, and the questions and answers thereto were reduced by stenographic means under my direction;

That the foregoing Pages 1 through 234 represent a true and correct transcript of the evidence given upon said hearing;

And I further certify that I am not of kin or counsel to the parties in this case; am not in the regular employ of counsel for any of said parties; nor am I in anywise interested in the result of said case.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 4th day of February, 2022.

*Wanda L. Robinson*

Wanda L. Robinson, CRR, CCR No. B-1973  
My Commission Expires 10/11/2023

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D I S C L O S U R E

STATE OF GEORGIA ) VIDEOTAPE DEPOSITION OF  
FULTON COUNTY ) DANTE T. McKAY - 01/27/22  
Pursuant to Article 10.B of the Rules and  
Regulations of the Board of Court Reporting  
of the Judicial Council of Georgia, I make the  
following disclosure:

I am a Georgia certified court reporter.  
I am here as a representative of Esquire Deposition  
Solutions, LLC, and Esquire Deposition Solutions,  
LLC was contacted by the offices of U.S. Attorney's  
Office to provide court reporter services for this  
deposition. Esquire Deposition Solutions, LLC will  
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## ERRATA SHEET FOR THE TRANSCRIPT OF:

Deponent Name: DANTE T. McKAY

Case Caption: United States of America vs. State  
of Georgia

Case No. : 1:16-cv-03088-ELR

I do hereby certify that I have read all questions propounded to me and all answers given by me on the 27th day of January 2022, taken before Wanda L. Robinson, and that:

\_\_\_\_\_1) There are no changes noted.

\_\_\_\_\_2) The following changes are noted:

Pursuant to state rules of Civil Procedure and/or the Official Code of Georgia Annotated 9-11-30(e), both of which read in part: Any changes in form or substance which you desire to make shall be entered upon the deposition with a statement of the reason given for making them.

Accordingly, to assist you in effecting corrections, please use the form below:

## CORRECTIONS:

Page	Line	Change	Reason For Change

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CERTIFICATE OF DEPONENT

I hereby certify that I have read and examined the foregoing transcript, and the same is a true and accurate record of the testimony given by me. Any additions or corrections that I feel are necessary, I will attach on a separate sheet of paper to the original transcript.

\_\_\_\_\_  
Signature of Deponent

I hereby certify that the individual representing himself/herself to be the above-named individual, appeared before me this \_\_\_\_\_ day of \_\_\_\_\_, 2022, and executed the above certificate in my presence.

\_\_\_\_\_  
NOTARY PUBLIC

MY COMMISSION EXPIRES: